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**“ACTIVITIES ON STRENGTHENING
PARLIAMENTARY PRACTICES IN TRINIDAD
AND TOBAGO”**

**A Study on Parliamentary Scrutiny and Existing
Parliamentary Practice**



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February 2012

*The opinions expressed in this document represent the authors' points of view
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The Parliament of Trinidad & Tobago

A Study on Parliamentary Scrutiny and existing Parliamentary Practice

February 2012

Client: European Commission Delegation Trinidad and Tobago

LIST OF ACRONYMS AND ABBREVIATIONS

AG	AUDITOR GENERAL
EC	EUROPEAN COMMISSION
EAA	EXCHEQUER AND AUDIT ACT
EU	EUROPEAN UNION
FAA	FISCAL ADMINISTRATION AND AUDIT ACT
FPTP	FIRST PAST THE POST
IBP	INTERNATIONAL BUDGET PARTNERSHIP
IDB	INTER-AMERICAN DEVELOPMENT BANK
INTOSAI	INTERNATIONAL ORGANISATION OF SUPREME AUDIT INSTITUTIONS
JSC	JOINT SELECT COMMITTEE
MP	MEMBER OF PARLIAMENT
OECD	ORGANISATION ECONOMIC CO-OPERATION AND DEVELOPMENT
ODI	OVERSEAS DEVELOPMENT INSTITUTE
PAC	PUBLIC ACCOUNTS COMMITTEE
PAAC	PUBLIC ADMINISTRATION AND APPROPRIATIONS COMMITTEE
PAEC	PUBLIC ACCOUNTS ENTERPRISES COMMITTEE
PAI	PUBLIC ACCOUNTABILITY DIVISION
PEFA	PUBLIC EXPENDITURE FINANCIAL ACCOUNTABILITY
PFM	PUBLIC FINANCIAL MANAGEMENT
PM	PRIME MINISTER
UK	UNITED KINGDOM
UWI	UNIVERSITY OF THE WEST INDIES

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The information contained within this report does not necessarily reflect the position or opinion of the Parliament or Government of Trinidad and Tobago or of the European Commission. Responsibility for the views expressed and for any errors of fact or judgement remains with the consultant who is accountable for providing an accurate assessment of events, opinions and comments.

Study Period
January 2012

EXECUTIVE SUMMARY

The specific objectives of this assignment, commissioned by the European Delegation in Trinidad and Tobago, are to assess the existing parliamentary practice in scrutiny of the budget and of the administration of the government and to build capacity on parliamentary oversight and scrutiny of the budget. This report carries out an assessment of the existing parliamentary practices with an aim to address shortcomings in the scrutiny process. It includes reference to international good practices and their applicability to Trinidad and Tobago. In relation to the budget and its implementation, this report is largely concerned with the contribution that the Parliament makes to the budget process.

The parliamentary system in Trinidad has its genesis in the Westminster system of government in the United Kingdom (UK). The Westminster system of parliamentary government seeks to control the exercise of power by making the executive directly responsible to the legislature and the executive is therefore drawn from and constitutionally responsible to the legislature. Most Members are elected to support a particular government and are, at the same time, expected to subject it to critical scrutiny.

A number of external or contextual factors – variables largely beyond the control of the legislature – impact on the Parliament's ability to oversee the government. Consideration of these external and contextual factors is important as it will enable better understanding of what the legislature is *capable* of achieving. For example the size of the executive in Trinidad and Tobago is large compared to the size of the legislature. Parliamentary scrutiny of the executive is compromised by party loyalties. There is also the all-encompassing question of whether the job of a parliamentarian is expected to be a full-time activity.

The Parliament is taking steps to obtain greater recognition and involvement within the often unhelpful external environment. Legislation is being prepared to ensure the Parliament has administrative and financial autonomy, an essential factor in gauging the autonomy of a Parliament. A review of the Standing Orders is also underway. These and other initiatives have the potential to create the political space necessary for the Parliament to enhance the core parliamentary function of scrutiny and oversight.

The Joint Select Committees (JSCs) Relating to Government Ministries, Municipal Corporations and other Bodies

JSCs are empowered to inquire and report to both Houses of Parliament in respect of government ministries; Municipal Corporations; Statutory Authorities; State Enterprises and Service Commissions. Ministries have been split between JSCs 1 and 2 along with their relevant Statutory Authorities and State Enterprises. The third JSC is devoted to Municipal Corporations and Service Commissions.

There are discrepancies between the Standing Orders of the Senate and the House of Representatives in relation to the JSCs. The Standing Orders of the Senate appear to suggest that both a more rigid departmental committee structure and a move away from current

practice that the JSCs provide oversight on the *non-financial* aspects of the operations of government departments.

The three JSCs are only able to scrutinise a small amount of the policy and actions of government departments and agencies. The experience of the committee system to date suggests that further committees may simply exaggerate existing problems.

The problem facing Trinidad and Tobago is similar to an issue facing many small country parliaments: the membership of parliament is not large enough to support multiple committees and the number of members who sit on the committee is limited. One option is for a mandatory minimum membership of backbenchers and executive members. Another option would be to make use of non-members in the work of committees, something which is used in other jurisdictions (for example Jersey, Guernsey, Denmark and Papua New Guinea).

Current attendance levels are quite high, but the number of meetings is low with some meetings cancelled because of quorum. The current practice is to set quorum at 5 members with rules ensuring government/opposition and House/Senate attendance. Strict and prescriptive rules can prevent business from being transacted or lead to the proceedings of a committee being suspended at any time. A quorum of 3 members could alleviate the situation.

Penalties or rewards for committee membership and attendance might increase participation. There are no sanctions if a member does not attend a committee meeting (other than their non-attendance being minuted) although they are encouraged to send an apology for their absence (not all do so). Members of both Houses receive the Committee allowance of TT\$1000 per month regardless of whether they attend the meeting of the committee or whether the Committee has met. Consideration could be given to raising the allowance to a more significant figure on the understanding that this is conditional on the committee member attending and the committee actually meeting.

In most jurisdictions committee size generally reflects the size of the Parliament. A Committee of 12 members in Trinidad is therefore quite large. A smaller sized committee could alleviate some of the pressures on members and Senators and offer the space for the creation of further committees. For example a committee of 10 persons would still allow equal representation between the House and the Senate and ensure the balance of parties is respected.

The current government has taken the approach that the JSCs should be chaired by one of the nine independent Senators and this practice has undoubtedly assisted the work of the committees and reduced the amount of partisanship. However, there is no assurance that this excellent practice will continue beyond this Parliament. Adding this practice to Standing Orders of both Houses would ensure continuity.

Members and Senators were extremely appreciative of the work carried out by parliamentary staff. In terms of future priorities, liaising with the public and tracking the outcomes of Committee work as well as liaising with government departments and other relevant bodies are important. The committees can be more proactive in demanding the annual reports of all entities mentioned in the Constitution to ensure proper oversight can take place.

While transparency in committee proceedings meets international good practice, there is not much evidence of wider engagement of civil society in the work of Parliament and a constructive relationship between parliament and civil society has yet to be fully realized.

The outputs and outcomes from the work of the JSCs have been quite small, but the intention now is to report on each Inquiry rather than an omnibus report at the end of a session. This will ensure that the timeliness and relevance of Committee work increases. Follow-up from committee work has been traditionally given little attention (both from the executive and the legislature).

Parliament and the Budget

Good governance requires that the executive must be held to account for its financial and substantive results. Areas to strengthen within Trinidad include the scrutiny of performance *ex ante* and the review of results *ex post*. While Parliament's formal powers in financial matters may not need to be increased, the ability and willingness of parliamentarians to scrutinise the government's finances and hold departments and other public bodies to account for the use of public monies requires support.

Budget preparation is explicitly conferred on the executive and role of the Parliament and the wider public is limited. Parliament could actively encourage the executive to table a pre-budget report to be debated in plenary and examined by the JSCs as appropriate to ensure there is legislative review and input into the government's annual strategy and proposals for the upcoming fiscal year. This has been introduced for example in Rwanda, UK, Uganda, Hungary, Portugal and Sweden. In the absence of a Pre-Budget Report, Parliament could still take the initiative to improve their own and the public's participation in the budget preparation phase. The JSCs, or a new JSC, could hold Hearings on the relevant Ministries' plans for the forthcoming year. This will ensure increased interaction between the Parliament and Ministers or departmental officials and allow parliamentary committees to give advice and provide suggestions on the future direction of services and programs.

The Westminster system places general limitations on the legislature both because of restrictions on amendment and political practice. It is normal for legislatures to approve the budget without making major changes to it. This is reflective of the concept of responsible government and tied to the issue of confidence which is a feature of parliamentary systems. Yet there needs to be meaningful scrutiny and oversight if the public are to have confidence in the democratic budget process. The budget in Trinidad and Tobago is usually passed within a month and, of the 11 days available for debate and scrutiny, only 5 days are generally used. This may be because of the lack of political motivation to scrutinize the budget

(a number of parliamentarians hold executive positions), the lack of capacity to amend the executive's budget proposal, insufficient financial and budget expertise within the legislature and late and insufficient financial information from the executive. In addition, there is very little involvement/pressure from civil society.

No public hearings are held on information presented in the budget. The experience of opening up parliamentary proceedings in Trinidad and Tobago to the media and the public suggest that holding public hearings on the budget through the JSCs or a new JSC could boost financial accountability and public understanding of the budget process.

The Finance Committee is a committee of Parliament: once a budget or supplementary appropriations reach Parliament, it becomes "Parliament's property". At present, however, finance committee meetings are not serviced by the appropriate parliamentary staff.

There would not appear to be widespread support within Trinidad and Tobago for a smaller Budget/Finance Committee to *replace* the existing Standing Finance Committee. However, the Parliament may wish to consider establishing a new JSC to *supplement* the Finance Committee and/or make use of the existing JSCs. This would ensure the Standing Finance Committee still has the right to review and accept/reject these recommendations (and formally consider all budget-related matters). The Departmental estimates could be sent to the existing JSCs, or a new JSC, at the earliest possible date so that the committee(s) have an opportunity to examine them thoroughly, making use of public hearings as appropriate, before they are voted on in the Committee of the whole House (the Finance Committee).

The same JSC/JSC(s) could also be used to input into the pre-budget process and to carry out closer monitoring of government spending. This would ensure the committee members are involved in all stages of the budget cycle (with the exception of audit). This should improve committee members' expertise and strengthen Parliament's ability to scrutinize the budget.

Whatever procedures are put in place for parliamentary oversight of the estimates, until such a time that the executive adopts a results-orientated and strategic Expenditure Management System, effective parliamentary oversight and input is likely to prove elusive. A Public Financial Transformation/Reform Process is taking place within Trinidad, but it will take some time to bear fruit and it will require the support and cooperation of the bureaucracy.

Even if the system ensures that appropriate financial information is presented, the budget process must also enable Parliament to make the best use of that information. New procedures and committees will require independent support. One option would be to recruit a full-time parliamentary budget adviser(s), reporting to the Clerk, to offer independent advice on budgetary matters throughout the year and to assist with budget-related research and analysis.

The current system of input or line budgeting is accounting-oriented, but allows Parliament to hold Departments and Agencies to account in terms of whether the money has been spent, but not necessarily on what was achieved with the money that was spent; in other words the end

result rather than the process. Reviews of financial and management systems are important, but the audit system in Trinidad and Tobago needs to move towards results-based auditing. The lack of results-oriented planning and performance information makes it difficult for the Auditor-General (AG), the Public Accounts Committee (PAC), and the Public Accounts (Enterprises) Committee to be truly effective.

The office of the AG suffers from capacity constraints: it is under-resourced in terms of staff. The office has only recently been granted adequate office accommodation. Historically, PACs were established to ensure parliamentary follow-up on AG reports and the relationship between the two has become the principal form of expression in legislatures across the Commonwealth. Yet the relationship between the AG and PAC in Trinidad and Tobago is rather functional and more arms-length than is found in many other jurisdictions.

Some PACs in other jurisdictions are paying more attention to reviewing the operations of the AG, but this appears to be done on an ad-hoc basis in Trinidad and Tobago. The PAC may wish to consider an annual review of the performance of the AG Office given that the work carried out by the AG directly impacts on the effectiveness of the PAC and the public's confidence in the institutions of the state.

The backlog of accounts has been a pressing issue facing Trinidad and Tobago for some time. Both the AG and the PAC are unable to cope with the volume of audit reports and no PAC has ever been able to accomplish the work constitutionally assigned to it. There does not appear to be a regular and systematic review of the entities which fail to submit financial reports in accordance with the Exchequer and Audit Act. It is also unclear whether the mechanisms to compel entities to submit their financial reports on time are suitable and/or operational.

In terms of the backlog facing the PAC – a backlog which would have been exacerbated by the lack of recent meetings - the PAC is now planning to focus on those entities that have not appeared before the committee in the last few years and post 2008 accounts. Moving towards a more strategic and needs-based approach could assist in clearing the backlog. Other options include meeting more regularly; establishing a subcommittee or subcommittees to examine particular entities and to invite other JSCs to use relevant audit reports in their inquiries. The mandate of the PAC could become clearer by better briefing and written rules governing the work of the PAC that can be passed on to new Committee Chairs and Members. Detailed rules of procedure and terms of reference would mitigate the problem.

The presence of members from the executive on the PAC/PAEC is reflective of the size of the Parliament and a problem across the committee system. Consideration could be given to restricting this practice to Ministers of State and Parliamentary Secretaries only. A further option would be to have the same members on both the PAC and the PAEC with different chairpersons (formally merging the two committees would require a constitutional change). The role of the PAC is to exercise their responsibilities independently and objectively and this becomes difficult if members of the committee have executive responsibilities.

Compared with many other Parliaments of similar size, Trinidad is fairly well equipped in terms of staff resources and dedicating one member of staff to the PAC and PAEC full time would help ensure their administrative functioning. The PAC has agreed to engage the services of a new financial analyst to assist the work of both committees.

The activity of the PAC has decreased in recent years (the PAEC has been more active). Given the lack of meetings, it is not surprising that outputs and outcomes from PAC activity in Trinidad are negligible. Political will to use the oversight tools at their disposal to improve governance is required if the PAC is to become operational (as it has been in the past).

No formal processes are in place to monitor and follow-up implementation of government responses to committee recommendations. Similarly the PAC/PAEC does not adopt a formal mechanism for measuring its performance. While stakeholders believe the PAC has been instrumental in the establishment of a more responsive attitude on the part of Administrative Heads of Government Ministries/Departments to the advice and requirements of the AG's Department, the focus to date has been on individual transgressions rather than remedying systemic issues of financial management.

INTRODUCTION

This report has been prepared as part of an overall objective to strengthen the function of the Parliament of Trinidad and Tobago in two main areas of scrutiny (i) the budget and its implementation and (ii) administration of government departments. The specific objectives of this assignment, commissioned by the European Delegation in Trinidad and Tobago, are to assess the existing practice in parliamentary scrutiny of the budget and of the administration of the government and to build capacity on parliamentary oversight and scrutiny of the budget.

In 2008 the European Commission (EC) Delegation in Trinidad and Tobago commissioned a report on Public Expenditure and Financial Accountability (PEFA) with the support of the Government of Trinidad and Tobago. The report considered the public financial management (PFM) systems, procedures and practices in Trinidad and Tobago. The report concluded that there are two main factors that colour the PFM of the central government in Trinidad and Tobago: the employment of manual non-salary expenditure control and accounting systems and the diluted role of parliament in budgetary oversight.

Committees have existed in the Parliament of Trinidad and Tobago in some form since the 18th Century. However, an Act passed in 1999 established committees to “investigate and report on the powers and methods of functioning of and criteria adopted by Service Commissions, Ministries, Statutory Authorities and Enterprises controlled by or on behalf of the State”. These committees are similar to the Departmental Select Committees found in other Westminster systems, but both Houses must have representation. Standing Orders for both Houses were amended to include this new Constitutional provision in 2001 and the JSCs began to operate in 2002. They are therefore still in the early stages of operation.

This report carries out an assessment of the existing parliamentary practices with an aim to address shortcomings in the scrutiny process. It includes reference to international best practices and their applicability to Trinidad and Tobago. In relation to the budget and its implementation, this report is largely concerned with the contribution that the Parliament makes to the budget process.

There was excellent co-operation from parliamentary officials in terms of making time available, often at short notice in spite of their own pressing work demands. Officials were fully engaging during meetings and any further information requested was provided promptly.

There was an exit debriefing session in Trinidad and the draft report was shared with the Parliament and other co-operating partners for their comment and input. Further workshops and study tours are planned to discuss the findings of the study.

METHODOLOGY

The project is envisaged to be carried out between January 2012 and June 2013. The field mission was carried out between 16 January and 1 February 2012.

This report is based on wide ranging consultations with Senators, Members of Parliament, government officials, parliamentary staff; visits to Parliament when it was in session and not; and reviews of documents both from Trinidad and Tobago (such as the Standing Orders) and external (to draw on international good practice).

This report will focus on the role played by Parliament in ensuring oversight of the executive. Furthermore, the terms of reference of this study are to examine the JSCs and the extent of parliamentary scrutiny of the budget. It will not therefore address the question of the supervision of the executive's legislative proposals¹ with the exception of the Appropriation Bill (the 'budget') and Supplementary Appropriation Bills.

The study makes no recommendations about any change to the structure of system of governance in Trinidad and Tobago. These are constitutional issues for the consideration of the people of Trinidad and Tobago. However, some consideration of relevant external and contextual factors is essential to ensure better understanding of what the legislature is capable of achieving.

The structure of the rest of the study is as follows:

- Part I provides background information and the context for the report.
- Part II provides an assessment of the JSCs established by the 1999 Act.
- Part III provides an assessment of Parliament's current role in the budget cycle.

¹ It is my understanding that the focus of forthcoming UNDP support to Parliament will include strengthening of the legislative functioning of parliament.

Part 1 - BACKGROUND AND POLITICAL CONTEXT

- 1.1 Trinidad and Tobago is a parliamentary democracy based on the Westminster model. It has a two-party system. Universal suffrage exists for citizens over the age of eighteen. The first Republican Constitution came into effect on 1 August 1976 (replacing the first independent Constitution of 1962).
- 1.2 The President is the head of state and the Prime Minister (PM) is the head of the government. The President is elected by an Electoral College consisting of all the members of the Senate and the House of Representatives assembled together (voting by secret ballot) and holds office for a term of five years. The President appoints the PM who is a member of the House of Representatives and usually the leader of the political party which commands the support of the majority of members of that House. The PM selects other cabinet members from Parliament. There are 28 Government Ministries and 14 municipal corporations. Tobago was given a measure of self-government in 1980 and is administered by the Tobago House of Assembly.
- 1.3 The Parliament of Trinidad and Tobago is the country's supreme legislative body and is made up of the President of the Republic, the Senate and the House of Representatives. The House of Representatives reflects the 41 electoral districts in Trinidad and Tobago (recently increased from 36), but when the Speaker is selected from outside the group the membership is increased by one. There are currently 42 Members.
- 1.4 The appointed Senate (upper house) consists of 16 government members (including the Presiding Officer, the President of the Senate) who are appointed on the advice of the PM; 6 Opposition Senators appointed on the advice of the Leader of the Opposition and 9 Independent Senators appointed by the President (the only function the President of the Republic of Trinidad and Tobago takes in his sole discretion without consultation).
- 1.5 The home of the Parliament of Trinidad and Tobago is the Red House which is currently undergoing extensive renovation and refurbishment². During this work, Parliament has temporarily relocated to the International Waterfront Centre. Although the chamber is small (certainly compared to the Red House), the facilities available at the Waterfront Centre are excellent and compare favourably with many other similar sized legislatures both within the region and worldwide.
- 1.6 Horizontal accountability consists of counterbalancing state institutions which are charged to oversee government – which includes Parliament, an independent judiciary and other constitutional watchdogs, many of which report to Parliament.

² A Joint Committee on Accommodation was established in September 2011 to oversee the restoration of the Red House.

Some of the key principles of accountability – often linked with the need to promote ‘good governance’ are as follows:

- Openness and transparency
 - Appropriate mechanisms of accountability (political, legal, public or audit)
 - Appropriate provisions to maximize the effectiveness of government; and
 - Public participation³
- 1.7 This study will focus on horizontal accountability and the role of Parliament in particular. Yet it is important to highlight vertical accountability - where government is held to account by citizens through elections – and the election system as both impact on Parliament. The Constitution requires that the PM call a general election no later than five years after the first sitting of the previous Parliament. The last elections were held in May 2010, and won by the People’s Partnership, a coalition consisting of five parties – the United National Congress, the Congress of the People, the Tobago Organization of the People, the National Joint Action Committee and the Movement for Social Justice. The voter turn-out was 69% - 3% higher than the last elections in 2007. PM Kamla Persad-Bissessar was sworn in on 26 May 2010 - the country’s first female leader. The Opposition party is the People’s National Movement, led by the Hon. Dr. Keith Rowley, MP. The next election is due by May 2015.
- 1.8 The First Past the Post (FPTP) System is used which has produced party government in Trinidad and Tobago. Countries which operate a system of proportional representation generally produce weaker governments with smaller majorities and/or a coalition of political parties. The FPTP system used in Trinidad and Tobago divides the country into geographical constituencies each of which will return one representative. On Election Day, the candidate who has the most votes is declared elected even if he or she lacks a majority. The FPTP system is designed to produce a strong and stable majority government (in terms of seats) and an easily identifiable alternative in the shape of an opposition.
- 1.9 While internal factors relating to the Parliament of Trinidad and Tobago will influence oversight, external or contextual factors – variables largely beyond the control of the legislature – also impact on the Parliament’s ability to constrain government. Indeed these are arguably more important when determining the effectiveness of a legislature.⁴ The principal contextual factors influencing legislative oversight are summarized below. It is important to recognize that these external factors do not always assist strong accountability of the executive to Parliament.

³ D Oliver (2003), *Constitutional Reform in the UK*, Oxford, Oxford University Press, p47.

⁴ Philip Norton, ‘Introduction: The Institution of Parliament’ in P. Norton (ed.) *Parliaments and Governments in Western Europe* (London: Frank Cass, 1998), pp. 1-15.

- 1.10 Trinidad and Tobago operates a parliamentary system under the Westminster model. Therefore, a major feature of the constitution can be usefully described as government *through* Parliament rather than government *by* Parliament. The basic understanding is that the executive must govern, while the legislature, as the representative of the people, acts as an overseer of the executive. The Westminster system of parliamentary government seeks to control the exercise of power by making the executive directly responsible to the legislature and the executive is therefore drawn from and constitutionally responsible to the legislature.⁵

Box 1: The Core Functions of the Parliament of Trinidad and Tobago

The Core Functions of the Parliament of Trinidad and Tobago are:

- to create and sustain a government;
- to ensure the business of government is carried on;
- to facilitate a credible opposition;
- to ensure the measures and actions of government are subject to scrutiny and that the government answers to Parliament for its actions; and
- to ensure that the voices of citizens, both individually and collectively, are heard and that, where necessary, a redress of grievance is agreed.

- 1.11 Section 75(1) of the Constitution states that: “There should be a Cabinet for Trinidad and Tobago. The Cabinet shall have the general direction and control of the government of Trinidad and Tobago *and shall be collectively responsible therefore to Parliament*” [emphasis added].
- 1.12 The advantage of such a system is that it facilitates accountable, coherent, stable and responsive government. The basic bargain is that governments are allowed to govern but in so doing must be subject to critical scrutiny and oversight. Yet the ability of the legislature to scrutinise the executive often becomes problematic when the latter has a dominant position not only in relation to the substantive business and proceedings of Parliament, but also in relation to the organisation and operation of Parliament. Most members/Senators are elected/nominated to support a particular government and are, at the same time, expected to subject it to critical scrutiny.⁶ This practice runs counter to the principle of separation of powers operated in some other countries, but it is a defining feature of the Westminster system.
- 1.13 Oversight and critical scrutiny becomes even more difficult in small jurisdictions when the size of the executive may be disproportionate to the size of the

⁵ *Ibid.*, p.3.

⁶ Barry Winetrobe, ‘Shifting control? Aspects of the executive-parliamentary relationship’ *House of Commons Library*, Research Paper 00/92 12 December 2000, p.12.

legislature. In Trinidad and Tobago the size of the Cabinet has increased in recent years and this is partly explained by the coalition government (see paragraph 1.7). The Cabinet consists of 24 persons (11 Members and 13 Senators) and there are a further 7 non-Cabinet Ministers (5 Members and 2 Senators). All government Members of the House of Representatives, with the exception of the Deputy Speaker, have executive responsibilities.

- 1.14 Other external factors include the role of the media - and Trinidad and Tobago certainly has a strong and robust media - and the Supreme Audit Institution (considered in Part III of this report) may be more helpful in this regard.
- 1.15 The influence of political parties has a strong impact on the external *and* internal environment of Parliament. Within Trinidad and Tobago, as with most liberal democracies, demands on the political system are aggregated into a programme for action by political parties whose central purpose is to organise accountable and effective governance as well as provide key representative functions of interest articulation and aggregation. A further major function of parties within the Westminster tradition is political recruitment and parliamentarians in Trinidad and Tobago are overwhelmingly members of political parties.⁷
- 1.16 In many respects, the party system is the principal political consideration in determining both the way Parliament works and executive-legislature relations. While a government must maintain the confidence of the legislature at all times, the voice of the legislature can be lost by the power and strength of political parties together with the expectation that MPs must give support to their political leaders.
- 1.17 The effectiveness of Parliament as an institution will depend on a balance being struck between partisan and scrutiny roles (not to mention constituency responsibilities). It is not difficult to see how parliamentary scrutiny of the executive is compromised by party loyalties and the balance between the legislative and the executive will always be affected by the control of party managers or the 'usual channels'. This has been described in other jurisdictions as the 'mindset' problem facing Members.⁸
- 1.18 Indeed, the debate between executive-legislative relations at any point of time is essentially a result of the relations within and among the political parties. This produces predictable voting outcomes in the chamber, but may restrict oversight. For example, Wehner (2004) suggests that political party majorities and party cohesion are two key variables that shape the political party balance power of party in the context of which parliament exercises its budget oversight functions:

⁷ Paul Webb *Democracy and Political Parties*, Democracy Series, The Hansard Society, 2007, pp. 6-10.

⁸ P. Giddings "Purpose and Prospects" in *The Future of Parliament*, Palgrave Macmillan, 2005 p.269.

and it is not difficult to see that this can be applied to oversight more generally in Trinidad and Tobago.

- 1.19 Trinidad and Tobago has a small Parliament. Such legislatures often have greater difficulties than larger jurisdictions in the operation of the committee system simply because of the small number of members available to participate in the full range of committees.
- 1.20 There is also the fundamental and all-encompassing question of whether the job of a parliamentarian is expected to be a full-time activity. This question is important as the answer will determine how realistic it is to expect the Parliament to become more committee-oriented. The introduction of a Committee Service Allowance to Members of Parliament is a reflection of the demands of committee work.
- 1.21 Parliamentarians in Trinidad who serve in the executive branch of government are considered to be holding full-time jobs. Most other members work in a profession in parallel to their parliamentary mandate and are essentially treated as part-time parliamentarians. This is reflected in the salaries and allowances and the business of the House where the Senate sits on a Tuesday (afternoon/evening) and the House sits on a Friday (afternoon/evening). The PAC and PAEC meet on Tuesday (morning) and the JSCs on a Friday (morning) i.e. on a day Parliament is sitting. Yet, modern parliamentary duties, such as committee work, not to mention the ever-increasing demands of constituency representation, may make it inevitable that Trinidad and Tobago moves beyond this one-day a week model towards a more full time arrangement. This will entail further consideration of the adequate remuneration of members and the appropriate number of parliamentarians and Senators. Table 1 summarises current remuneration arrangements and Table 2 provides a sample comparison of selected democratic countries.
- 1.22 Consideration of the above external and contextual factors will enable better understanding of what the legislature is *capable* of achieving. For example, within the Westminster tradition the outputs of committees are merely recommendatory and there is no obligation on the executive to accept them. However, the committee system still requires development as it is an internal oversight tool (alongside supporting factors such as the research and administrative capacity of Parliament) which can enhance good governance. Similarly, the executive will usually have its way in budgetary politics; that is the nature of the Westminster system, although the government may be susceptible to persuasion by the Parliament in this process and the legislature will also generate and inform wider debate in the media and the public.

Table 1: Members' Remuneration Arrangements⁹

Selected Remuneration Arrangements	PM	Minister	Presiding Officers	Leader of the Opposition	Parliamentary Secretaries	Chairmen of PAC, PAEC & JSCs	Members of the Senate	Member of the House
Monthly Salary (TT\$)	\$48,000	\$33,000 (Cabinet) \$27,300 (Non-Cabinet)	\$23,800	\$23,800	\$18,900	\$10,500 (Senate) \$14,000 (House)	\$10,500	\$14,000
Transportation Allowances	\$5,550 per month & a personal chauffeur	\$5,550 per month & a personal chauffeur	\$3,800 per month & a personal chauffeur ¹⁰	\$4,900 per month & a personal chauffeur	\$4,900 per month & a personal chauffeur	\$3,800 per month (Senate) \$4100/4200 per month (House)	\$3,800 per month	\$4,100 per month (\$4200 is constituency is located beyond 50km from Port of Spain.
Committee Service Allowance	N/A	N/A	N/A	\$1000 per month per committee	N/A	\$2,000 per month per committee	\$1000 per month per committee	\$1000 per month per committee

Table 2: Comparison of Selected Countries Parliamentary Arrangements¹¹

	Trinidad and Tobago	Jamaica	Barbados	Bermuda	Scotland	Wales	Denmark
Population	1, 227, 505	2, 868, 380	286, 705	68, 679	5, 222, 100	3, 006, 430	5, 529, 888
Number of elected Members (Lower House)	41	60	30	36	129	60	179
Member per Population	1 : 29, 939	1: 47, 806	1: 9, 557	1: 1908	1: 40, 481	1: 50, 107	1: 30893
Number of Members in Upper House	31	20	21	11	N/A	N/A	N/A
Monthly Salary (US\$)	\$2,187	\$2205	\$2000	4668	7571	7088	8818
Number of Committees	7	17	5	9	16	11	26

1.23 Efforts of the Parliament of Trinidad and to obtain greater recognition and involvement within the external environment must be commended. Legislation is being prepared to ensure the Parliament has administrative and financial autonomy, an essential factor in gauging the autonomy of a Parliament. It is hoped

⁹ Information Brief published by the Office of the Parliament.

¹⁰ The Speaker of the House of Representatives receives a slightly higher transportation allowance when he is an elected Member.

¹¹ In Trinidad and Tobago, Jamaica, Barbados and Bermuda, the job of a parliamentarian is considered a part-time occupation. In Scotland, Wales and Denmark, a parliamentarian has a full-time salaried job, but a Member may have a second job/income.

that the delinking of the Parliament from the Public Service Commission should be completed by the end of the current parliament.

- 1.24 A review of the Standing Orders is also underway and it is hoped this will be completed by the end of the current session of Parliament. One area which could be included as part of this review is to consider explicit provisions within the Standing Orders on the deferral or postponement of answers to questions to ensure they are answered in a timely fashion.
- 1.25 The above initiatives have the potential to create the political space necessary for the Parliament to exercise their key functions, including oversight, more effectively. As such they deserve to be championed across all political parties and parliamentarians. These changes will not change the basic relationship between the executive and the legislature - the executive will still dominate the legislature because of the nature of the system – but it will serve to enhance the core parliamentary function of scrutiny and oversight.

Part II. THE JOINT SELECT COMMITTEES RELATING TO GOVERNMENT MINISTRIES, MUNICIPAL CORPORATIONS AND OTHER BODIES

- 2.1 While a legislature can constrain government, the viscosity of legislatures appears to be greater where they are specialised¹². Such specialisation normally takes place through committees, often described as the “engine room” of the legislature.
- 2.2 In Trinidad and Tobago there are four broad types of committee, which consider matters referred to them, or which fall within their mandate, and report their recommendations to the House. These are Committees of the Whole; Sessional Select Committees; Special/Joint Select Committees (established on an ad hoc basis) and the Watchdog Committees.
- 2.3 Sessional Select Committees deal with regulatory functions for the House itself (lasting an entire session) and include the Standing Orders Committee; the House Committee; the Committee of Privileges; and the Regulations Committee.
- 2.4 Special Select are ad-hoc committees set up to consider and report on specific matters referred to them. Such issues may be legislative, financial or investigatory and once the Committee has reported to Parliament, the life of the Committee comes to an end.¹³ When such a Committee is comprised of Members of both Houses it is termed a Joint Select Committee.
- 2.5 The Watchdog Committees include the Joint Select Committees established under the Constitution (Sec 66a) and encompass Members of the House and the Senate. They are empowered to inquire and report to both Houses of Parliament in respect of Government Ministries; Municipal Corporations; Statutory Authorities; State Enterprises and Service Commissions. The Watchdog Committees also include the PAC and PAEC, which are established under Article 119 of the Constitution. Once established these Committees last for the duration of the Parliament.
- 2.6 An important committee worth highlighting is the *Standing Finance Committee*, a committee of the whole House, which meets *in camera* to consider and report on all proposals for the expenditure from public revenue or other funds which are not included in the Annual Estimates, including proposals for supplementary and unforeseen expenditure (see Part III).

¹² Norton (1998) *op.cit.* pp.8-9.

¹³ One big difference between the committee structure of parliaments is whether permanent or ad hoc committees are used for legislation. Trinidad and Tobago has followed the British tradition of ad hoc law-making committees; other parliaments have uni-functional committees (Scandinavian countries) or multi-functional committees (USA, New Zealand).

- 2.7 Parliament committees (with the exception of the Standing Orders committee and the House Committee) have the power to send for persons, papers and records (i.e. to request the submission of documents or the attendance of persons to give oral evidence although consideration must be given to the relevance to the committee's work and the sub judice convention). Witnesses have the same privilege of freedom of speech and protection from arrest as Members of Parliament in relation to proceedings of the House or Committees. No legal action can be taken against the witness in relation to the evidence given before a Committee during a hearing.
- 2.8 Committees also have the power to "adjourn from place to place" (i.e. to meet away from Parliament and to travel within Trinidad and Tobago) and to "report from time to time" on subjects of their choosing, rather than on specific matters referred to them by the House. This power does not appear to have been used much to date.
- 2.9 Standing Orders 71B of the Senate and 79B of the House of Representatives delineate the core powers of the JSCs which include *inter alia*:
- to send for persons, papers and records;
 - to adjourn from place to place;
 - to appoint specialist advisers; and
 - to communicate with any other Committee on matters of common interest.
- 2.10 Table 3 shows the Ministries, Statutory Authorities, State Enterprises, Municipal Corporations and Service that fall under the purview of each Committee. Essentially, the ministries have been split equally between JSCs 1 and 2 along with their relevant statutory authorities and state enterprises. This division has been calculated on an alphabetical basis and no attempt has been to group similar ministries together or to consider the number of statutory authorities and state enterprises falling under those ministries. The third JSC is devoted to Municipal Corporations and Service Commissions (with the exception of the Judicial and Legal Service Commission).
- 2.11 There is a discrepancy between the Standing Orders of the Senate and the Standing Orders of the House of Representatives in relation to the JSCs. Standing Order 79b. (2) of the House of Representatives states:
A JSC referred to in sub-paragraph (1), shall be empowered to study and report on all matters relating to the mandate, management and operations of the Ministry or body which is assigned to it by the House. In general the Committee shall be severally empowered to report on –
- (a) *The statute law relating to the ministry/body assigned to it;*
 - (b) *The program and policy objectives of the ministry/body and its effectiveness in the implementation of same;*

(c) *Other matters relating to the management, organisation of the ministry/body, as the Committee deems fit*

Table 3: The Responsibilities of the three JSCs

JSC Appointed to Inquire into and Report on Ministries with Responsibility Areas Listed as (GROUP 1) and on the Statutory Authorities and State Enterprises Falling Under those Ministries	JSC Appointed to Inquire into and Report on Ministries with Responsibility Areas Listed as (GROUP 2) and on the Statutory Authorities and State Enterprises Falling Under those Ministries	JSC Appointed to Inquire Into and Report on Municipal Corporations and Service Commissions (with the exception of the Judicial and Legal Service commissions)
Ministry of Arts and Multiculturalism (9 Statutory Authorities/State Enterprises)	Local Government (6 Statutory Authorities/State Enterprises)	Police Service Commission
Office of the Attorney General (10 Statutory Authorities/State Enterprises)	National Security (3 Statutory Authorities/State Enterprises)	Public Service Commission
Community Development (3 Statutory Authorities/State Enterprises)	Office of the Prime Minister (5 Statutory Authorities/State Enterprises)	Statutory Authorities Service Commission
Education (4 Statutory Authorities/State Enterprises)	People and Social Development (7 Statutory Authorities/State Enterprises)	Teaching Service Commission
Energy and Energy Affairs (22 Statutory Authorities/State Enterprises)	Planning, Economic and Social Restructuring and Gender Affairs (3 Statutory Authorities/State Enterprises)	Arima Borough Corporation
Finance (23 Statutory Authorities/State Enterprises)	Public Administration (4 Statutory Authorities/State Enterprises)	Chaguanas Borough Corporation
Food Production, Land and Marine Resources (8 Statutory Authorities/State Enterprises)	Public Utilities (7 Statutory Authorities/State Enterprises)	Couva/Tabaquite/Talparo Regional Corporation
Foreign Affairs	Science, Technology and Tertiary Education (24 Statutory Authorities/State Enterprises)	Diego Martin Regional Corporation
Health (8 Statutory Authorities/State Enterprises)	Sport and Youth Affairs (5 Statutory Authorities/State Enterprises)	Mayaro/Rio Claro Regional Corporation
Housing and the Environment (5 Statutory Authorities/State Enterprises)	Tobago Development (2 Statutory Authorities/State Enterprises)	Penal/Debe Regional Corporation
Justice (4 Statutory Authorities/State Enterprises)	Tourism (2 Statutory Authorities/State Enterprises)	Point Fortin Borough Corporation
Labour and Small and Micro-Enterprise Development (8 Statutory Authorities/State Enterprises)	Trade and Industry (18 Statutory Authorities/State Enterprises)	Port of Spain City Corporation
Legal Affairs (1 Statutory Authorities/State Enterprises)	Works and Transport (14 Statutory Authorities/State Enterprises)	Princes Town Regional Corporation
		San Fernando City Corporation
		Sangre Grande Regional Corporation
		San Juan/Laventille Regional Corporation
		Siparia Regional Corporation

13 Ministries	13 Ministries	4 Commissions
54 Boards	43 Boards	1 Corporations
49 Enterprises	40 Enterprises	
Total: 117 Entities	Total: 96 Entities	Total – 18 Entities

The corresponding Standing Order in the Senate is 71B.(2).

*A JSC referred to in sub-paragraph (1), shall be empowered to study and report on all matters relating to the mandate, management and operations of the Ministry or body which is assigned to it by the Senate. In general the Committee shall be severally empowered to **review and report in relation to their administration, the manner of the exercise of their powers, their methods of functioning and any criteria adopted by them in the exercise of their powers and functions [emphasis added].***

The Parliament of Trinidad and Tobago may wish to standardize these two Standing Orders in the forthcoming review.

- 2.12 A positive aspect of the system in Trinidad is that membership of committees is generally stable and consistent with the life of the Parliament (five years). This ensures continuity of membership and the development of expertise in terms of the jurisdiction of the Committee. It should enable greater familiarity with public administration structures and policy and the view of most stakeholders is that the JSCs provide a mechanism for overseeing a number of new statutory bodies. However, this is mitigated by the fact that the scope of two Joint Committees is so broad (see Table 3). A large number of state enterprises and entities have been created in recent years (an example what the Hansard Society Commission in the UK calls the ‘agentification’ of government).¹⁴ The risk of expanding and increasing complex governance arrangements is that accountability can suffer.
- 2.13 In most jurisdictions, select committees are only able to scrutinise a small amount of the policy and actions of government departments and agencies. However, this appears even more marked in Trinidad and Tobago with just two committees devoted to 26 ministries. It may be unrealistic to expect Trinidad and Tobago to have a committee system which parallels government departments and some form of grouping is inevitable given the size of the Parliament. But a question mark must remain as to whether the current system allows appropriate oversight of government departments and specialization among committee membership. Perhaps one way of ensuring this would be to establish subcommittees (which is permissible in the Standing Orders). This would allow members to specialize in certain areas and ensure a greater division of labour within the committee. It should be noted, however, that while subcommittees play an important role in some larger parliaments, such as the United States Congress and German Bundestag, their role has been limited in most jurisdictions.

¹⁴ House of Lords Committee on the Constitution, *The Regulatory State: Ensuring its Accountability* (2003-04) HL68-1.

- 2.14 The Standing Orders of the Senate appear to suggest a more rigid departmental committee structure should be established. Extracts from Standing Order 72 of the Senate (which is not replicated in the House of Representatives) read as follows:

72. (1) At the commencement of each Parliament, the Senate (with the concurrence of the House of Representatives) shall appoint the following Joint Parliamentary Committees:

- (a) Banking, Finance and Estimates;*
- (b) External Affairs and International Trade;*
- (c) Labour, Industry and Commerce;*
- (d) Food Security and Agricultural Development;*
- (e) Constitutional and Legal Affairs*
- (f) Education, Health and Social Services;*
- (g) Tertiary Education, Research, Science and Technology.*

(2) The Senate shall, for the purpose of these Committees, appoint not more than three members to sit with Members of the House of Representatives.

(3) The Committee shall examine the estimates, expenditure, administration and policy of the Ministries, Government departments, State Enterprises falling under the Headings set out in (1) above and submit periodic reports to the Parliament.

(6) No Minister shall be a Member of a Joint Parliamentary Committee appointed under this Standing Order.

- 2.15 The current practice is for the JSCs to provide oversight on the non-financial aspects of the operations of government departments. Yet the above Standing Order suggests these committees should *examine the estimates, expenditure, administration and policy of the Ministries, Government departments, State Enterprises falling under the Headings set out in (1) above and submit periodic reports to the Parliament*. Given the weaknesses identified in Parliament's scrutiny of the budget and estimates (see Part III), the Parliament may wish to reflect whether the current emphasis on the non-financial aspects of government departments is appropriate.

- 2.16 The Standing Order also serves to restrict ministers from membership of the JSC although this is not the current practice. According to research carried out by the World Bank¹⁵, small states are more likely to have government members working on committee work or will have other arrangements for government-committee relations (17% vs. 8%). In other parliaments government members are usually only allowed to participate in committee work at the request of the committee or the government. While it is hard to view the JSCs as fully independent due to the dual executive and

¹⁵ World Bank (2010) PACs in Commonwealth Small Country Parliaments: A Comparative Analysis.

scrutiny roles of their members, it is perhaps inevitable that members of the executive will have to play some kind of role in the committee system given the current parliamentary arithmetic. Yet it should be possible to restrict membership to Ministers of State and Parliamentary Secretaries. This is also true of the PAC (see para 3.88).

- 2.17 The formation of seven joint parliament committees would subject more ministries and agencies to greater scrutiny. Yet the experience of the committee system to date suggests that an increase in the number of JSCs may simply exaggerate existing problems. Indeed, it is uncertain whether there is sufficient political support for more oversight committees. A JSC on External Affairs is provided for in the Standing Orders of both Houses, but has never been made operational. At present Foreign Affairs falls under the purview of Joint Committee 1 (while matters of National Security fall under JSC 2).
- 2.18 The number of Members and Senators may not enable creation of further committees. In the first session of the tenth Parliament at least two meetings were cancelled because of lack of quorum¹⁶ and this probably obscures the real issue as meetings are not normally scheduled if there are fears that a quorum is unobtainable.

Committee Size and Quorum

- 2.19 While the size of the parliament often has little bearing on the number of committees that are established, the problem facing Trinidad and Tobago is similar to an issue facing many small country parliaments: the membership of parliament is not large enough to support multiple committees and the number of Members who sit on the committee are limited (World Bank 2009).
- 2.20 Parliamentary committees provide opportunities for backbenchers to contribute effectively to the work in parliament. However, there are effectively only 12 backbench Members of the House because of the size of the executive and overall size of the House of Representatives. This has substantially reduced available backbenchers for committee duties and undermined balanced bi-partisanship on the committees.
- 2.21 Possible solutions to this problem include a mandatory minimum membership of backbenchers and executive Members. Another option would be to make use of non-Members in the work of committees, something which is used in jurisdictions such as Guernsey, Jersey, Papua New Guinea, Kiribati, Denmark and Finland. There has also been discussion in larger countries such as Pakistan whether ad hoc committees with members drawn from civil society would strengthen system performance. This practice could be valuable if committees are unable to find sufficient members with the required level of expertise; and it could reinforce the non-partisanship of the JSCs. Jersey uses a public selection process for non-Members on the PAC with applicants

¹⁶ A quorum – or a minimum number of members - must be present whenever a decision is being made or a vote is being taken for it to be considered legal or binding.

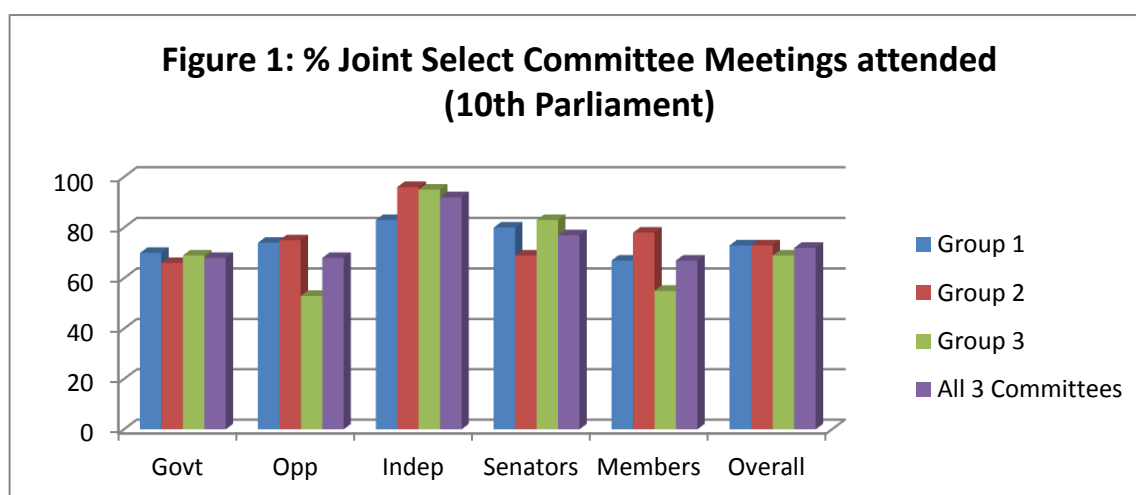
appointed by the Parliament. In Denmark PAC Members are appointed by Parliament on the basis of proportional representation, so that each main party is represented on the Committee.

2.22 The Parliament of Jamaica has 10 Sessional Select Committees and it is interesting to note that their committees meet more frequently (about once per month) than the JSCs in Trinidad. Table 4 below shows the number of meetings held by each JSC in Trinidad. An explanation for the reduced number of meetings in the Tenth Parliament is that the Committees were not appointed until the end of October 2010 and committee business was disrupted by the relocation of Parliament to the Waterfront between July and September 2011.

Table 4: Total number of Meetings held by each JSC for the Tenth Parliament in Trinidad and Tobago

COMMITTEE	JSC GROUP ONE	JSC GROUP TWO	JSC MCSC
First Session (18 June 2010 – 17 June 2011)	7	8	8
Second Session to date (27 June 2011 – 20 Jan 2012)	2	4	2
Total (June 2010 – 20 Jan2012)	9	12	10

2.23 Figure 1 shows attendance in the JSCs in the 10th Parliament of the Republic of Trinidad and Tobago. It shows that attendance over all three committees is 72% with no dramatic differences across the three committees. Senators are more likely to attend Committee meetings than Members of the House of Representatives, but this is explained by the excellent attendance record of the independent Senators (who are responsible for chairing and vice-chairing the meetings). Across all three JSCs there is no significant difference in attendance between government and opposition members/Senators although attendance by opposition members in Group 3 Committee drops significantly (but still over 50%).



- 2.24 One reason given by stakeholders within Trinidad and Tobago for the committee system not reaching its potential is the demands on the time of Members and Senators. Yet, the overall attendance at JSCs is 73 per cent. This far exceeds the rate achieved in Jamaica where just over half of Members attended Sessional Committee meetings from Jan-Feb 2011 (World Bank 2011). This may be because there are more committees in Jamaica or a reflection that these committees consist of members from the lower house only (unlike Trinidad and Tobago). The JSCs in Trinidad and Tobago meet on Friday mornings prior to plenary sessions (the House of Representatives meets on Friday afternoons) which may boost attendance. However, it is also true these figures do not reflect the number of meetings that were not arranged because the parliamentary staff could not locate Members. Furthermore, the overall number of meetings in Trinidad and Tobago is lower than in Jamaica.
- 2.25 Therefore, it seems fair to conclude that (the absence of) quorum is restricting the number of committee meetings in Trinidad to some degree. According to the Committees Unit of Parliament, the determination of its quorum is the next important decision that a committee makes subsequent to the election of its chairman.
- 2.26 Standing Orders 71(2) of the Senate and 79 (2) of the House of Representatives state that: "*The quorum of a JSC shall be such as the Committee may decide*". In JSC Group 1 and JSC 3 a quorum of five (5) members has been agreed which must include at least one government and one opposition member; at least one member from each House; and either the Chairman or the Vice-Chairman in attendance. The quorum of JSC Group 2 is five members being three members from the House of Representatives and two members from the Senate inclusive of the Chairman or Vice-Chairman.
- 2.27 The current practice may indicate a lack of confidence in the committee system. Strict rules about party participation may prevent the committee from operating and proceedings may be suspended by a walkout. In the UK the quorum of a select committee is three or a quarter of the number of its nominated members whichever is the greater, and in calculating the quorum fractions are counted as one (the chair is included in the calculation). It is not so unusual to prevent a joint committee from transacting business unless a quorum from each House is present.
- 2.28 There are no sanctions if a member does not attend a committee meeting (other than their non-attendance being minuted) although they are encouraged to send an apology for their absence (not all do so). The UK House of Commons took a decision on 4 March 2010 that any member of a select committee whose cumulative attendance during a Session is below 60% should be automatically discharged at the end of that Session on the basis of a report made by the Clerk of Committees to the Speaker. The Speaker of the House of Commons has discretion to waive the application of the rule (for example in cases involving ill-health). Such a rule could be adapted to suit the requirements of the Parliament of Trinidad and Tobago.

- 2.29 In the Polish Sejm MPs who fail to attend more than one-third of committee meetings in the course of three months without a valid reason lose one-third of their salary in the following three month. In Trinidad and Tobago, Members and Senators receive the Committee allowance of TT\$1000 per month regardless of whether they attend the meeting of the committee or whether the Committee has met. Perhaps some thought can be given to raising the allowance to a more significant figure on the understanding that this is conditional on the committee member attending and the committee meeting.
- 2.30 The Parliament of Trinidad and Tobago may also want to reflect on the size of the three Joint committees (currently 12 including the chairman and with equal representation from the Senate and the House of Representatives). In most jurisdictions committee size generally reflects the size of the Parliament. The size of Select Committees in the UK and Canada is 11 Members and 12 Members respectively. As the Standing Orders of the House/Senate state that any Select Committee may appoint not more than six Members from each chamber, reducing the number of committee members would be possible.
- 2.31 One explanation for the large size of committee membership was to ensure overall functionality given the problems experienced with quorum. Yet experience elsewhere does suggest that it can be difficult for all Members to participate in larger committees (also leading to disengagement and quorum issues). The statistics shown in Figure 1 above show that attendance is quite good. While it is inevitable that members in smaller parliaments will have to play multiple roles, a smaller sized committee would alleviate some of the pressures on parliamentarians and perhaps enable the creation of further committees.

Table 5: Size of Joint Committees in Trinidad and Tobago

Committee Size	House	Senate	Govt	Opposition	Independent
12 (current practice)	6	6	7 (58%)	3 (25%)	2 (17%)
11	6 (5)	5 (6)	7 (64%)	3 (27%)	1 (9%)
10 (suggested practice)	5	5	6 (60%)	3 (30%)	1 (10%)
9	5	4	5 (56%)	3 (33%)	1 (11%)

- 2.33 For example a Committee of 10 persons would still allow equal representation between the House and the Senate (although exact numbers from the House and the Senate are not required under the Standing Orders) and would still ensure the balance of parties is respected (see Table 5). The government would have the majority in the Committee (both in terms of Senate and House Representatives); there would be equal representation between the House and the Senate; and the opposition would be ensured of a critical mass of members. Losing one of the two independent Senators could be alleviated by a new provision in the Standing Orders that an independent Senator act as Chairman of all Joint Committees (see para 2.37). These changes,

alongside a quorum of 3 Members would ensure that the Committees remain a microcosm of the larger assembly.

- 2.34 Documents produced for Committee Members by the Committees Office of the Parliament describe the role of the Chairman as follows:
- Collaborates with committee members in making strategic planning decision
 - Ensures that all rules established by the Committee are respected
 - Requests on behalf of the Committee, the appearance of witnesses or the production of papers
 - Conducts proceedings in an orderly and fair manner
 - Rules on the relevance of questions to witnesses
 - Ensures that the Committee receives advice from the Secretary in relation to matters of procedure and availability of resources.
- 2.35 The Chairman does not have the power to decide questions of privilege, such decisions rest with the House after a report from the committee; does not vote except in instances where there is equality of votes in which case he/she has a casting vote; does not have the authority to unilaterally summon any person before the committee without approval from the Committee; can cancel a meeting that he has set, but not one set by the Committee.
- 2.36 Committee chairpersons are entitled to an allowance of TT\$2000 per month (double the allowance of ordinary committee members).
- 2.37 The Constitution stipulates that the Chairmen of the PAC and PAEC shall be Members of the Opposition. No such stipulation exists for the JSCs: indeed Standing Order 79 states that a JSC shall elect its own chairman. Given that all committees must ensure, as far is possible, that the balance of parties in the House/Senate are reflected in the committee, this Standing Order allows the government to determine the Chair. The current executive has taken the approach that the JSCs should be chaired from one of the nine independent senators and this practice has undoubtedly assisted the work of the committees and reduced the amount of partisanship. Both Houses could give consideration on adding this excellent practice to their Standing Orders. A change to ensure all oversight committees are chaired by a Member of the Opposition has been beneficial to the Parliament of Jamaica and the workings of its committee system.

Openness and Transparency

- 2.38 In September 2006, the Parliament of Trinidad and Tobago officially launched The Parliament Channel which is available to cable subscribers in Trinidad and transmitted on free to air television via NCC Channel 4 to a wider cross section of viewers who do not have cable television. In November 2007, the Parliament Channel began broadcasting on radio frequency 105.5 FM.

- 2.39 The extension of live proceedings to include oversight Hearings has given the public a greater awareness of the work of Parliamentarians and the importance of scrutiny. Stakeholders also report that live proceedings have had some success in encouraging committee members to work and act as a parliamentarian rather than a minister or a member of a particular political party. Ordinary committee meetings are held *in camera* while the media and general public are able to attend Hearings/Inquiries¹⁷. This distinction is not unusual and indeed understandable given the need for inter-party (and perhaps inter-chamber) compromise in a highly partisan legislature.
- 2.40 While transparency in committee proceedings meets international good practice, there is not much evidence of wider engagement of civil society in the work of Parliament (apart from the infrequent submission to an oversight committee and public petitions (often related to local circumstances). In the 8th Parliament (2002-2007) one oversight committee held public meetings outside of the Red House, in the regional corporation halls, but public attendance was minimal. A constructive relationship between parliament and civil society has yet to be fully realized (see also para 3.51 concerning the budget process).
- 2.41 Other countries have used various methods to involve civil society in the work of Parliaments. Denmark has used a series of Consensus Conferences to ensure the perspectives of civil society are incorporated into new scientific and technological developments. The US, Germany, Spain, Palestine and the Netherlands have used Citizens' Juries or groups of randomly chosen citizens which deliberate on a particular issue and hear views from expert witnesses. Citizens' Panels can also be used to track changes in public opinion; to develop views about future goals and policy options; and to scrutinize policy implementation. However, public hearings within Parliament appear to be the most common form of ensuring that civil society contributes to the work of the legislature. Further options include roundtables between civil society specialists and parliamentary committees and using civil society representatives as actual members of parliamentary committees (see para 2.21).

Committee Resources

- 2.42 Adequate committee resources are pre-requisites to any effective committee system. Support services provided by the Committees Office (see Table 6) include a Secretary and Assistant Secretary who provide the primary source of procedural advice and interface with public and committee and a graduate research assistant who researches subject areas, identifies issues and prepares background papers. There are currently nine staff members in the Committee Office: two secretaries, three graduate assistants, 3 clerks and a Head of Section. Of the three clerks, one clerk is assigned to group 1 and ad-hoc committees, and the Head of Section is assigned to groups 2 and

¹⁷ The public is informed through adverts in the papers and through the website which Inquiry is being planned and written submissions are received from the public. Oral testimony from the public is rare.

3. The other two clerks are procedural clerk assistants and support the committees as assistant secretaries. Graduate assistants undertake research and are allocated to a particular committee. The library also undertakes research (normally in response to Senators and members).

Table 6: Committee Staff Resources

Secretary/Assistant Secretary	Graduate Research Assistant (3)	Clerk Typist/Stenographers (2)
Procedural Advice ↓ Assists the Chairman Assists in developing inquiry plans Prepares Minutes Coordinates and plans all meetings Requests/receives submissions from stakeholders Prepares notices of meetings and letters	Research Support ↓ Maintains a record of Administrative Reports laid and entities examined, to assist Members in their decision making Drafts and maintains Status Reports Prepares Issue Papers to guide and assist members in the examination process Prepares independent background research on issues/entities	Administrative Tasks ↓ Types Notices of Meetings and letters General assistance and secretarial duties

- 2.43 The Parliament of Trinidad and Tobago may wish to note that the Parliament of Jamaica has established a Parliamentary Internship Programme with resources provided by the University of the West Indies (UWI). This has proved a cost-effective option in the absence of resources to engage full time researchers. It might be possible to arrange with the University some form of academic credit to be awarded to a student for their work in Parliament.
- 2.44 Specialist advisers can be employed on an ad hoc or contractual basis to provide expert, professional and technical services to committees. They are independent and unbiased, qualified and experienced, agreed by the committee usually by the adoption of a motion and can question witnesses. This facility, which adds to the depth and breadth of specialist knowledge of parliamentarians, is innovative in comparison with many other legislatures, but has not been used much to date (although the PAC has taken steps to appoint a financial adviser).
- 2.45 Members and Senators are extremely appreciative of the work carried out by parliamentary staff. A committee Chairperson described the parliamentary staff as the highest quality staff she had come across in the public service. Indeed, in these formative years it is no exaggeration to say that the JSCs rely heavily on the parliamentary staff who are generally effective in recording attendance, ensuring relevant papers are distributed to Members, organizing hearings and inquiries. In terms of future priorities, liaising with the public and tracking the outcomes of committee work as well as liaising with government departments and other relevant bodies could be considered. In particular, the committees may have to be more

proactive in demanding the annual reports to ensure proper oversight on that particular entity performance in its roles and responsibilities.

Table 7: Outstanding Reports by Entity¹⁸

Committee	Outstanding Reports (Ministries)	Outstanding Reports (other entities)	Outstanding Reports (Service Commissions)	Outstanding Reports (Municipal Corporations)
JSC 1	10	115	n/a	n/a
JSC 2	9	80	n/a	n/a
JSC 3	n/a	n/a	0	12

- 2.46 One of the common complaints made by the Chairpersons of the parliamentary committees and staff in Parliament is that many of these entities do not submit a regular report. One Chairman reported having a meeting with the Permanent Secretaries and discovering that they were unaware of this constitutional requirement. In recent years the situation with ministries has improved, but there is a backlog which needs to be addressed and instances still remain of unwillingness on the part of ministries and their agencies to submit information requested by the committee. Table 7 provides a summary of the current state of play regarding the backlog of reports.
- 2.47 Section 66B of the Constitution requires all Service Commissions to submit to the President before 1st October in each year, a report on its administration, the manner of the exercise of its powers, the methods of functioning and any criteria adopted by it in the exercise of its powers and functions in the previous year. The report is laid thereafter in each house within sixty days. Similar rules are in place for Government Ministries, Municipal Corporations, Statutory Authorities and State Enterprises, but the deadline for submission to the President is 1st July.
- 2.48 While the work of committees are issue-based and must reflect public interest, rather than what has been reported or not, these reports contain the basic information that Members require to hold them to account: including how they are spending their money and general operational efficiency. Without a structured explanation of achievements and performance, it is almost impossible for a committee to ask further questions or hold an Inquiry to seek justifications and explanations for action. This is even harder when those responsible for past decisions are no longer in a position of responsibility (which is more likely when reports are delayed).
- 2.49 There is no penalty for failure to file a report and the JSCs may wish to take a firmer stand against the bodies under their jurisdiction to expose such bad practice. The JSCs could hold an annual meeting at which those entities under their jurisdiction are called to account for not submitting annual reports. As Committee hearings are televised

¹⁸ It should be noted that some entities are several years behind in the submission of their Annual Reports. For example Ministry of Trade and Industry has not submitted an annual report from 2005 to date.

(see para 2.39) the additional transparency and public exposure could encourage many bodies to meet their constitutional obligations. Where possible, the relevant minister can also be invited to this meeting for their observations.

Outcomes and Outputs

- 2.50 Perhaps the major issue facing the three JSCs in Trinidad and Tobago concerns the outputs and outcomes from the work of the committees. Outputs from committees are usually defined as the product of activity caused by that committee. The main formal output is the report¹⁹ and their recommendations, but wider activity will include parliamentary debates and media coverage, as well as the government response.
- 2.51 The outputs from the three Committees have historically been quite small, but the intention now is to report on each Inquiry rather than an omnibus report at the end of a session. This will ensure the timeliness and relevance of Committee work increases. This becomes even more important because the minutes of each meeting and the relevant transcripts of committee meetings are published with the report. If a report is delayed, there is no discernible way of showing the work of the committee other than through the Parliament channel (important though this is).

Table 8: Reports Laid: Tenth Parliament First Session²⁰

JSC GROUP 1			
REPORTS	DATE LAID		
	HOR		SENATE
First Report - JSC Group 1 - Ministry of Health Insect Vector Control	25.03.2011		22.03.2011
Second Report - JSC Group 1 - The Administration of the Green Fund	03.06.2011		14.06.2011
JSC GROUP 2			
First Report - JSC on Ministries, Statutory Authorities and State Enterprises (Group II) - Palo Seco Agricultural Enterprises Limited (PSAEL).	09.11.2011		20.10.2011
Second Report - JSC on Ministries, Statutory Authorities and State Enterprises (Group II) - National Information Communication Technology Company Limited (NICTCL) branded as IGOVTT.	09.11.2011		20.10.2011
JSC MCSC			
CURRENTLY WORKING ON FIRST REPORT			

Table 9: Draft Reports before JSCs (as at 31 January 2012)

JSC GROUP ONE	JSC GROUP TWO	JSC MCSC
2	3	1

¹⁹ Provision exists to allow committee members to submit minority reports, although they are rare in practice.

²⁰ Information supplied by the Committees Unit of Parliament.

- 2.52 Table 8 shows the reports that have been laid in the first session of the tenth Parliament and Table 9 shows the draft reports currently before the JSCs (as at 31 January 2012). No report has yet been made available in the Tenth Parliament from the Joint Committee on Municipal Corporations and Service Commissions although it has held meetings on the Teaching Service Commission, Police Service Commission, Public Service Commission and Statutory Authorities Service Commission. The Committee is currently working on its first report. Two reports have been laid by Joint Committee (Group 1) and two draft reports are currently before the Committee. Two committee reports have been tabled by JSC Group 2 with 3 reports in preparation.
- 2.53 One of the explanations for the lack of reports is the length of time it takes to get them finalized. The Secretary to the committee will draft a report which is then reviewed by the Chair. The reviewed draft is then sent to the committee who will deliberate in camera and go through the report, normally page by page. Once the report has been agreed and amended, the practice is for all members to sign the document.
- 2.54 The accountability loop is completed by a response from the executive to its findings and recommendations. Measuring the impact of the committee work without this facility is difficult. While there can be no requirement for the government to *implement* committee recommendations, accountability requires the government to *consider* and formally *respond* to them in a timely manner.
- 2.55 There appears to be uncertainty, on the part of some Members, about the procedure to follow once these reports have been prepared and submitted with recommendations. The Standing Orders are clear in this respect. All committee reports must be tabled in Parliament. They can be debated, but most are not (this is not unusual in Commonwealth Parliaments) although they may lead to debate in the public arena as they are publicized and carried live in parliamentary channel. The reports are sent to the relevant ministry.
- 2.56 It would appear that much of the uncertainty relates to what happens after the report has been sent to each ministry. The Standing Orders state that the Minister responsible for the ministry/body under review shall, not later than sixty days after a report from a JSC, present a paper to the House responding to any recommendations/comments contained in the report. A Minister, or Parliamentary Secretary, may make a short presentation of its contents, but there is no debate. This is the practice in most established Parliaments: where a select committee has made a report relating to government administration or policy, the government will reply to the committee's recommendations and observations. Within the UK replies are made within 2 months of the publication of a report. In some circumstances a longer delay may be permissible when those circumstances have been explained to the committee concerned.

- 2.57 The tabling of responses to committee reports has not yet established itself as a common practice. One Chairperson expressed the view that despite reports containing useful recommendations concerning the delivery of government services and use of resources, it is process driven rather than an effective form of accountability.
- 2.58 The current intention is for the Parliament to be more proactive in ensuring the relevant government ministry responds to the report and recommendations. Yet this may require the co-operation of ministries and other entities and a Memorandum of Understanding between the Parliament and the Permanent Secretaries may be a useful way of ensuring this.
- 2.59 The requirement for the ministry to respond to committee reports and recommendations is not appropriate for the Service Commissions established by Chapter 9 of the Constitution.²¹ These responses could become the responsibility of the Chairmen of the respective Commissions with a copy sent to any ministry with linked responsibilities. The Ministry for Local Government could respond to any report/recommendations relating to the Municipal Corporations (although at present the Municipal Corporations are generally sending reports direct to Parliament rather than through the ministry).
- 2.60 Once responses have been received by the relevant Ministry or entity, the Committee can then decide on the relevant course of action, if any. Options will include inviting the Minister/Permanent Secretary/Chairman to give evidence on the progress made in implementing recommendations, undertaking a follow-up Inquiry with a further report or to ask a ministry/body for progress reports on recommendations previously made by them.
- 2.61 A further option would be to seek a debate in the House or Senate (in the UK most debates on select committee reports are held *after* the Government reply has been published²²). Following UK practice reports could also be considered on substantive motions expressing the agreement or disagreement of the House with the report as a whole or with certain paragraphs of it, or agreeing to the recommendations contained in the report generally or with certain exceptions. Motions could also be made which are founded upon, or enforce, the resolutions of the committee, or are otherwise relevant to the subject of the report or the business of the committee. Debates on select committee reports could also take place upon motions to take note of a report. A further option would be for the House/Senate to schedule debate on a set number of days each session on subjects arising from select committee work.

²¹ Namely the Police Service Commission; Public Service Commission; and Teaching Service Commission.

²² The UK House of Commons has greatly increased the opportunities for such debates through the establishment of the Westminster Hall chamber.

Assessment of Performance

- 2.62 Studies assessing the effectiveness of a parliamentary committee suggest a number of factors are important. These include:
- A clear mandate, clear roles and responsibilities of the committee (parallel government departments) with a degree of autonomy and the power to set their own agenda;
 - The size of the committee – large committees are unwieldy and small numbers limit the quantity and quality of ideas needed for effective work.
 - The quality of the chairperson;
 - The quality of support staff and resources available to the committee (including the experience of the clerks and the existence of special advisers supporting the Committee).
 - Consensus building and a nonpartisan approach
 - The general quality of membership
 - Powers to take evidence and conduct Inquiries (and the amount of time taken on each inquiry)
 - The degree of media interest.
 - The readiness of departments to provide evidence and useful material and to respond to reports.²³
- 2.63 Using the indicators suggested above, it is possible to provide an overall assessment of the three JSCs. The impact of the JSCs may have been rather modest, but they are still in their infancy and operating in a highly partisan legislature. The committees have been institutionalized to a large extent: there are Standing Orders relating to the conduct of their business and common practices have been recognized by the Houses as part of the general procedures.
- 2.64 The work of committee has been strengthened by the transition from *in camera* to open sittings of parliamentary committees for parliamentary hearings and a recent decision for chairmanship of all JSCs to be provided by independent Senators (which has assisted consensus building and a nonpartisan approach, despite obvious tensions between the political parties).
- 2.65 Other positive aspects include the support staff and resources available to the committee (although the use of Special Advisers would be beneficial and assist the general quality of membership); the degree of media interest; and the powers which exist to take evidence and conduct Inquiries.
- 2.66 The Committee Hearings observed in January 2012 contained robust and fair questioning which extracted valuable information. For example, a backlog of 5,000

²³ Adapted from Nevil Johnson (2005) What of Parliament's Future? in Giddings (ed) *op.cit.* p14.

MRI scans was revealed in a meeting of the JSC (Group 1) on 20 January. Witnesses were treated with respect and the hearings were by and large partisan free.

- 2.67 One observation is an apparent tendency for the entity being questioned to bring a huge number of witnesses. The aforementioned meeting involved some 16 officials from the Ministry of Health, from the Permanent Secretary and Chief Medical Officer to the two Country Medical Officers in the North West Regional Health Authority. Despite the numbers of people present from within the ministry, the committee had to accept on a number of occasions written clarification or information at a later date and it is therefore open to debate whether such numbers are necessary. Each Committee may wish to consider limiting the number of witnesses to the key people responsible for that entity/Inquiry. This will focus attention on the key individuals within the entity under review and ensure that the number of witnesses does not exceed the number of committee members.
- 2.68 The Parliament is also making sensible use of the Senate across the three oversight Committees. The existence of an upper house permits useful participation in public affairs to those who might not wish to run for election (or those who have had experience of public life) and the Senate is a resource that is well utilized compared with many other regional legislatures (for example Jamaica).
- 2.69 However, the mandate and roles and responsibilities of the JSCs could be re-examined. The discrepancies between the Standing Orders of the Senate and House of Representatives are untidy and unnecessary. If the long-term aim of the Parliament is to move towards a more departmental based system, this will be dependent on the interest and availability of Members. Multiple membership across different Committees (including Sessional Select committees and Special Select Committees) may make it difficult for committee members to focus their work on one committee. Until such a time, there may be advantages in keeping the existing structure of three joint Committees or perhaps creating a fourth committee to alleviate the burden on JSCs 1 and 2.
- 2.70 The size of each committee could be reduced to reflect the number of Members and Senators. Parliament may wish to consider reducing the membership size to 10 with a quorum of 3 persons (including the Chairperson) with an Independent Senator as the Chairperson and confirming the arrangement in Standing Orders.
- 2.71 Very few parliamentary committees assess their own performance. The general outcomes of Committee work are described by the Parliament as follows:
- More informed decision-making by Parliament
 - Active public participation in democratic processes
 - Better accountability/transparency in government
 - Strong parliamentary influence in public policy making

2.72 Most of the outcomes mentioned above need to be measured over the medium to long term to track positive impacts on democratic processes and the culture of accountability. Stakeholders within Trinidad and Tobago generally accept that Committee processes have led to more informed decision-making by Parliament as parliamentarians become more knowledgeable over issues and government administration. There is also some limited evidence concerning influence in public policy making; for example the JSC's hearing on Legal Aid resulted in the government introducing amended legislation. Greater efforts to track long-term outcomes as well as any intermediate outcomes such as any censure of officials responsible for inefficient or improper practice and improvements in public service delivery could prove beneficial to the work of Parliament as a whole.

Box 2: Benchmarks for Measuring JSC Performance

Activity level – the measurement of events and input resources used

- Keeping up to date with annual reports
- Costs and time of staff, members, witnesses and others involved

Output level – the immediate visible results of the work the committee does

- Recommendations made, followed and implemented

Outcomes level – durable improvements in public administration

- More accurate, timely government information
- Enhanced public awareness of government programs
- Enhanced legislative knowledge about the state of the management of programs and entity performance

Source: Adapted from Stapenhurst, Saghal, Woodlev and Pelizzo (2005)

2.73 Active public participation in democratic processes is limited in terms of the work of the JSCs at the present time (this may be true of the other committees). Yet it is fair to assume that the public Hearings and use of the parliamentary channel has led to improved transparency as well as increasing public knowledge of parliamentary processes and the business of government. The improvements in accountability are works in progress and the rules and practices require tightening as highlighted above. Consideration could be given for improving opportunities for civil society involvement in the work of the JSCs.

2.74 Furthermore, each Committee also may wish to consider their own accountability by presenting an Annual and/or Legacy Report to Parliament which shows the output of each committee, the number of meetings, member attendance and the main findings of the Committee for that Parliament. A “legacy” report can be a useful tool for passing on experience to successor committees. Such reports have proved useful in Scotland. The Parliament Library produced a Sessional Review for 2010-2011 for the first time which contains some very useful information on the work of Parliament, including its

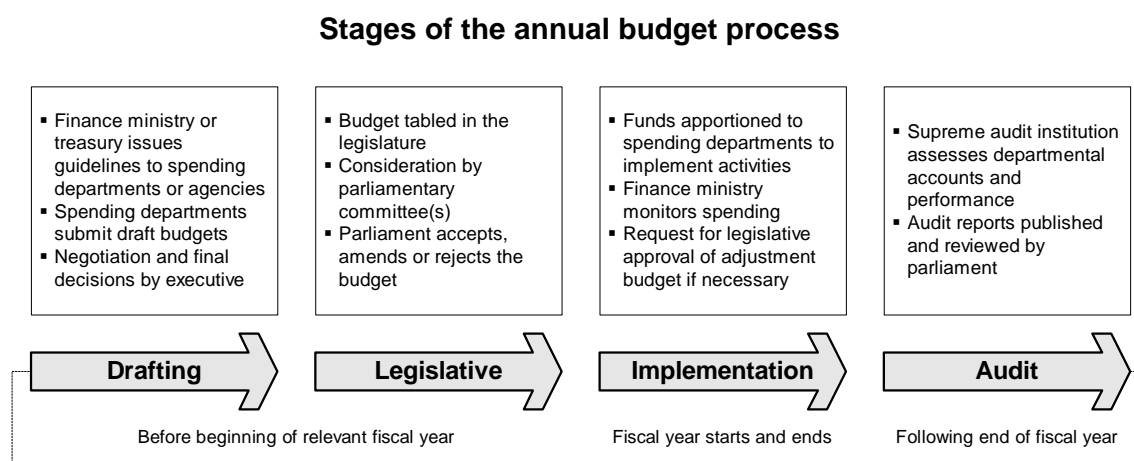
Committees. A further step would be to make it incumbent on each committee to provide a report of their work over the course of that Parliament.

- 2.75 As effective committee arrangements become established, the chain – or cycle – of accountability should become embedded and the credibility of the Parliament will be enhanced. Yet it is important here to return to some of the fundamental questions raised at the start of this report: do Members see committee service and performance as important both in terms of accountability and their own political career? Is it realistic to expect Members to place more attention on committee work given the financial incentives and the demands placed on them by executive and professional work? Do the citizens of Trinidad and Tobago expect their Members to be full-time Parliamentarians?

Part III – PARLIAMENT AND THE BUDGET

3.1 There are four main phases in a budget process (Fig.2) each of which will be examined in turn although the focus will be on the contribution that the Parliament of Trinidad and Tobago makes at each stage.

Fig.2 Stages of the Annual Budget Process²⁴



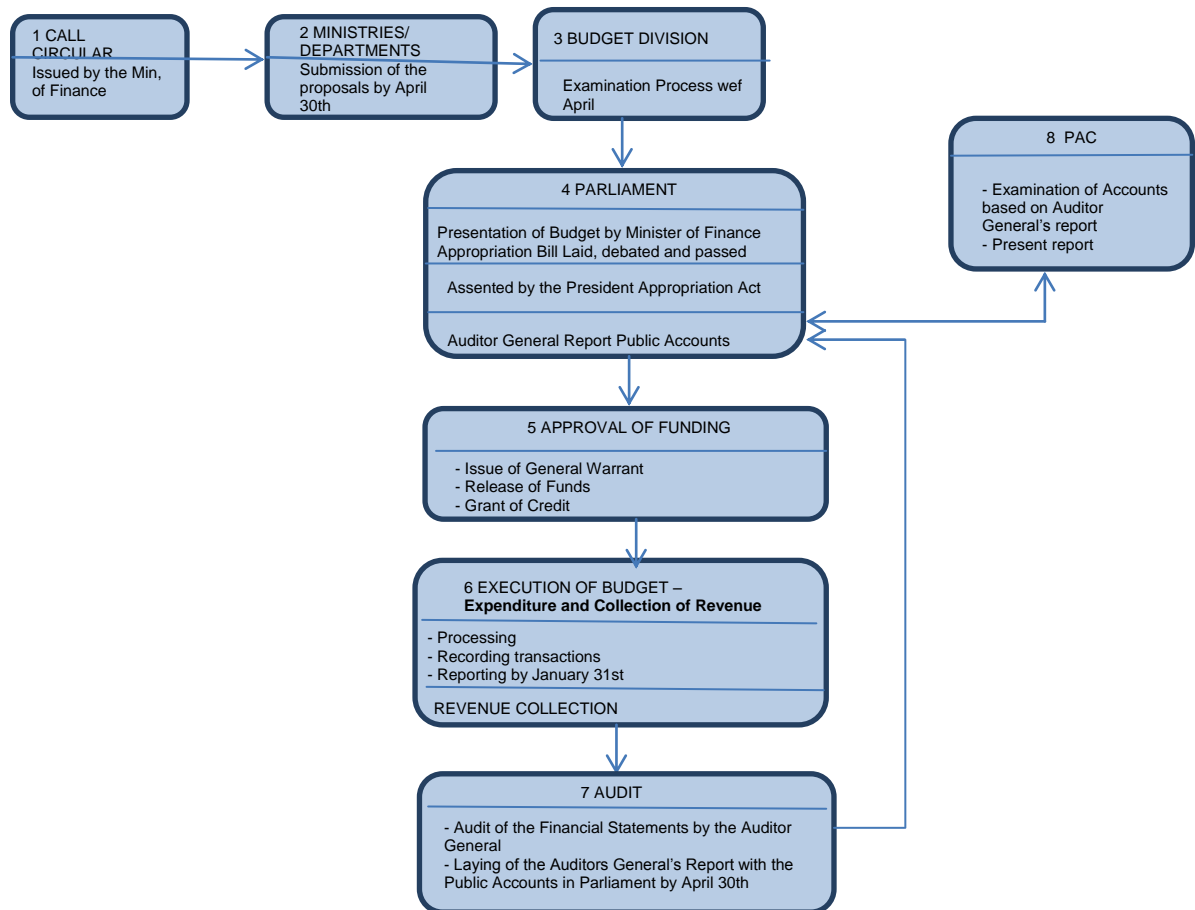
3.2 The phases of the budget cycle in Trinidad and Tobago reflect the above chart and can be summarized as follows:

1. Executive Preparation and Submission
2. Parliamentary Authorization and Presidential Assent
3. Execution (including, if necessary, the approval of Supplementary Estimates)
4. Audit of Appropriation Account and laying of reports by the Auditor General in the House of Representatives
5. Examination by the Public Accounts Committee and laying of the report before the House of Representatives.

Figure 3 provides a detailed summary of the budgetary process and accountability cycle in Trinidad and Tobago as provided by the Ministry of Finance.

²⁴ Source World Bank (2012) Parliament and the Budget E-Learning Module.

Figure 3: Budgetary Process/Accountability Cycle in Trinidad and Tobago



3.3 The budget cycle in Trinidad and Tobago reflects what the Overseas Development Institute (ODI) has described as a “traditional model for national level political accountability of government”. It assumes that the business of setting policy is the responsibility of an elected political directorate – and that this same group has the responsibility for holding officials to account for effectively implementing policy. Within such systems the extent of meaningful citizen participation is variable and often highly contested.

Budget Preparation

- 3.4 In Trinidad and Tobago it is a core function of the executive to prepare the budget. Article 113 (1) of the Constitution states that the minister responsible for finance shall cause to be prepared and laid before the House of Representatives before or not later than thirty days after the commencement of each financial year estimates of the revenues and expenditures of Trinidad and Tobago for that year. The Exchequer and Audit Act (EAA) details the functions of the Ministry of Finance which includes the coordination of the budget preparation process and the management of the implementation of the budget. The Budget Division is responsible for guiding the budget formulation process.
- 3.5 Across political systems there are huge differences as to the extent of consultation that might take place between the executive and the legislature. In parliamentary systems the preparation of a budget is seen as a government's core responsibility. Yet, the key question is whether it is possible for the legislature to have an input in budget preparation without compromising the core responsibility of the executive.²⁵
- 3.6 In some countries priority may well be given to consultation with government backbench supporters and there is often more widespread consultation within coalition or minority government situations. Almost all Government Members are members of the executive (i.e. there are very few backbenchers from the governing party) in Trinidad and Tobago and are therefore consulted as part of the normal process of government²⁶.
- 3.7 The time allowed for budget preparation from the time of the issuance of the budget call circular to the budget hearings is typically 8 weeks. Ministries must supply estimates of their required annual expenditure by 30 April of each year. A consultative process then takes place between the Ministry of Finance and the ministries. Once all the estimates are in, including those from wider society, the Budget can be finalized and approved by Cabinet.
- 3.8 On 3 March 2011, the Ministry of Finance issued a call circular that set out the requirements for Ministries and Departments to be followed in the preparation of their draft estimates for the financial year 2012. Ministries and Departments were required to submit their draft estimates by 30 April²⁷. For fiscal year 2012, Ministries are required to submit their draft estimates in the normal line item format, but the intention is in the medium to long term to a change in the budgetary system from the current line item format to Output Budgeting (see paragraph 3.53).

²⁵ D. McGee *The Budget Process*, Pluto Press 2006.

²⁶ Although it should be noted again the current government is in fact a coalition of three political parties.

²⁷ Parliament also receives this call circular and is required to respond by the same due date.

- 3.9 The executive does release to the public its timetable for preparation of the executive's budget proposal, but for the last two years this has been available on the website after the deadline of 30 April. The Executive holds some limited consultations with the public as part of its process of determining budget priorities. A document entitled Budget consultation 2006-2007 is currently available on the website of the Ministry of Finance which suggests that some invited groups and organizations, such as the Business Sector, Trade Unions and Youth Council, are consulted to some degree.
- 3.10 The OECD recommends that a pre-budget report should be released no later than one month prior to the budget proposal. This should include the government's long-term economic and fiscal policy objectives and the government's economic and fiscal policy intentions. The OECD also recommends that Parliament must have the opportunity and the resources to effectively examine any fiscal report that it deems necessary. The executive does not release a pre-budget statement in Trinidad and Tobago (although the International Budget Partnership (IBP) report a statement is produced for internal use and issues may be communicated from executive sources via the media).
- 3.11 Experience in other jurisdictions demonstrates that parliamentary input to the budget process has improved with the initiative of the pre-Budget process. This is even true of the UK where the Budget has always been very much an executive-led activity. The UK Treasury Select Committee now undertakes an Inquiry into the Pre-Budget Report which includes evidence from the Chancellor and other officials and experts. As the OECD (2002) best practices state "A pre-budget report serves to encourage debate on the budget aggregates and how they interact with the economy. As such, it also serves to create appropriate expectations for the budget itself".
- 3.12 Across the Commonwealth there are other examples of legislative participation in the budget formulation process. In Ghana the Finance Committee conducts pre-budget consultations with the Minister of Finance. The Parliament of Uganda has three to four weeks to give its views on the government's budget framework paper. The Canadian House of Commons Standing Committee on Finance organises public hearings on an economic and fiscal update that is presented by the government some months ahead of the budget.
- 3.13 The Zambian Ministry of Finance and National Planning advertises for submissions on the budget from the citizenry, Members of Parliament, the private sector and the civil society. A Committee on Estimates of the National Assembly provides input into the government's Green Paper which shows the government's intentions in the following year's budget. Following these consultations, the ministry prepares preliminary consolidated Estimates on the revenue and expenditure which are approved by Cabinet and then presented to the National Assembly in the Budget Address. During the budget formulation stages in Zimbabwe, Parliament conducts public hearings with the aim of incorporating views from the public into the National

budget. Parliament also hosts a pre-budget seminar where all MPs, various stakeholders and economic ministries share ideas regarding their expectation on the upcoming budget.

- 3.14 Yet within Trinidad and Tobago (and indeed across the Caribbean region more generally), Parliament has not been used as a means of injecting an element of public opinion into the formulation of the budget. As the 2008 PEFA Report states, the legislature review covers fiscal policies and the details of revenue and expenditure estimates, but only at a stage where for all practical purposes detailed proposals have been finalized. As well as the lack of formal inputs, the Parliament does not appear to exercise any *informal* influence over the pre-budget process.
- 3.15 Parliament could actively encourage the executive to table a pre-budget report to be debated in plenary and examined by (a) parliamentary committee(s) to ensure there is legislative review and input into the government's annual strategy and proposals for the upcoming fiscal year.
- 3.16 Even in the absence of a Pre-Budget Report, Parliament could still take the initiative to improve their own and the public's participation in the budget preparation phase. The JSCs, or perhaps a new Joint Committee on Estimates (see paragraph 3.42), could hold hearings on some of the relevant ministries' plans for the forthcoming year. This would ensure increased interaction between the Parliament and ministers or departmental officials and allow parliamentary committee to give advice and provide suggestions on the future direction of services and programs. This has proved possible in other small jurisdictions (for example Scotland) and over the five year session of the Trinidad and Tobago Parliament it should be possible to use the annual budget cycle to get civil society and agencies whose budgets they are responsible for scrutinizing in front of a parliamentary committee to give evidence at some stage of the budget process.

Budget Approval

- 3.17 Reflecting the Westminster tradition, Parliament cannot initiate financial bills and it has strictly limited powers to amend the government's financial proposals. Parliament may only reduce existing items proposed by the government, but it may not include new items or increase existing ones, nor can cut funds be shifted to increase spending on a different item elsewhere in the budget. According to the standing Orders of the House of Representatives, an amendment to increase the sum allocated to any Head of Expenditure can only be undertaken by a Minister whereas a proposal to decrease the sum allotted to any Head of Expenditure can be moved by any Member. Because of its built-in majority in the Parliament budgets are rarely altered.
- 3.18 International experience suggests that the budget should also be tabled sufficiently in advance of the fiscal year to which it relates in order to improve budget transparency. Best practice suggests that the budget should be submitted at least three months prior

to the start of the fiscal year. Great variation exists. The United States, for example, must submit a budget 8 months in advance of the fiscal year. In Denmark, Germany and Norway the limit is 4 months while 3 months is prescribed in France and Korea.

- 3.19 In Trinidad and Tobago a budget must be presented within one month of the opening of the fiscal year (Article 114.(1) of the Constitution), though the government may, in practice, choose to present it earlier than this and normally the budget is presented a few weeks before the end of the fiscal year. This is in keeping with many countries operating the Westminster system (but not all: the Indian Constitution requires that the budget be presented before the opening of the fiscal year and the practice within Canada is to submit a budget within 2 months of the fiscal year (although this is not a legal requirement). The executive in Trinidad and Tobago announces the release date of the budget two weeks or less before the release.
- 3.20 Standing Orders 63-70 detail the rules governing the budget approval process. Immediately after the presentation of the Appropriation Bill, the Minister presenting the Bill is entitled to move the second reading which is the occasion for the Minister of Finance to make his Budget Speech. This is a major political development within Trinidad and Tobago and the main event in the parliamentary year. It is the responsibility of the Minister of Finance to lay and present in the House of Representatives, the Appropriation Bill along with other Budget Documents. These Budget Documents include:
- The Draft Estimates of Expenditure
 - Draft Estimates – Details of Estimates of Recurrent Expenditure
 - Draft Estimates of Revenue and Expenditure of the Statutory Boards and Similar Bodies and of the Tobago House of Assembly
 - Draft Estimates of Development Programme
 - Draft Estimates of Revenue
 - Social Sector Investment Programme (reviews the annual performance of Ministries)
 - Public Sector Investment Programme
 - Public Sector Investment Programme Tobago
 - Supplementary Public Sector Investment Programme
 - Review of the Economy
 - The Value Added Tax Act (Amendment to Schedule 2) when necessary
 - The Provisional Collection of Taxes Order
- 3.21 After the budget speech, the Minister of Finance sets a date upon which the debate on the second reading shall be resumed which shall not be less than two clear days after the Budget Speech. This debate, which is confined to the financial and economic state of the nation and the general principles of Government policy and administration, continues on the day of resumption and on three further days. In the United Kingdom the debate continues for about a week.

- 3.22 After the debate is completed and the Bill is read a second time the House goes into Finance Committee of the whole House to consider the bill and the estimates. The Finance Committee, which meets *in camera*, considers and reports on all proposals for the expenditure from public revenue (or other funds which are not included in the Annual Estimates, including proposals for supplementary and unforeseen expenditure). The Chairman of the Finance Committee is the Minister of Finance and he is required to give not less than 48 hours notice of each meeting to members. A maximum of seven days is allotted for discussion of the Appropriation Bill in Finance Committee.
- 3.23 As soon as the Appropriation Bill has been reported to the House, the Minister of Finance gives a brief oral report that the Estimates have been considered and approved and then a motion for the third reading is made. There is no written report to debate. Standing Order 69 - which allows for a debate on the specific details of Heads of Expenditure in the report of the Finance Committee - is not followed (Standing Order 69 is only followed for the Supplementary Appropriation Bill).
- 3.24 Once it is passed in the House of Representatives the Bill is then brought before the Senate. The procedure in the Senate is similar except that the Bill is not committed to Finance Committee. After the Bill has been debated and passed it is forwarded to the President of the Republic for his assent. It then becomes the Appropriation Act for the particular year.
- 3.25 Criticism of the budget approval process in Trinidad and Tobago must be based on realistic expectations of what the Parliament can achieve. The Westminster system places general limitations on the legislature both because of restrictions on amendment and political practice. It is normal for legislatures to approve the budget without making major changes to it. This is reflective of the concept of responsible government and tied to the issue of confidence which is a feature of parliamentary systems. However, meaningful scrutiny and oversight is essential if the public are to have confidence in the democratic budget process.
- 3.26 The duration of the legislative stage is one important factor in determining its overall potential influence. International practice suggests that a time period of 3-4 months is usually adequate for effective consideration of the annual state budget (Laws may be adopted to increase the length of debate on the budget). In Trinidad the budget is usually passed within a month and of the 11 days available for debate and scrutiny, about 5 days are used. This compares with 90 days in Latin American parliaments. On closer scrutiny there are some obvious explanations why the Parliament does not use its (already limited) time for scrutiny of the budget.
- 3.27 The Clerk of the Standing Finance Committee being an official of the Ministry of Finance (the Director of Budgets) appears to be a breach of Standing Order 6 of the House of the Representatives which outlines the duty of the Clerk of the House. The explanation for this practice is that it enables the Director of Budgets to advise the

Ministry of Finance. The use of parliamentary clerk would still allow the Director of Budgets being on-hand to assist the Ministry of Finance. Once a budget or supplementary appropriations reach Parliament, it becomes “Parliament’s property”. The normal process would be that the meetings are serviced by the appropriate parliamentary staff.

- 3.28 In practice the Appropriation Bill in Finance Committee is reviewed in a single day rather than the 7 days allotted to it; indeed the records show that over the last 10 years, just above two hours is generally spent in Finance Committee. The meeting is chaired by the Minister of Finance and serviced by a senior official at the Ministry. At the same time most of the questions are directed to and answered by the Minister of Finance: he is therefore both chief witness and chair. It is not unusual for the Chairman to put a matter to a vote if difficult/sustained questions are posed on the estimates.
- 3.29 In Jamaica the Speaker, or in his absence the Deputy Speaker, acts as Chairman of the Committees of the whole House, including the Standing Committee on Finance. In the United Kingdom, the Chair (at the Table) in Committee of the whole House is generally taken by the Chairman of Ways and Means or, in his absence, by a Deputy Chairman (the Clerk Assistant is the Clerk of the Committee of the whole House). In Barbados, the Chairman of Committee presides over the Standing Committee on Finance and he/she cannot be a Minister or Parliamentary Secretary.
- 3.30 In Bermuda a Committee of Supply, sitting as a Committee of the whole House considers the Estimates of revenues and expenditure and any supplementary Estimates. Unless the House otherwise decides, a maximum of fifty-six hours is allowed for the consideration of the Estimates in the Committee of Supply. In the case of debate on the Estimates of Expenditure, the Opposition has the right to determine the order in which the heads of expenditure shall be considered by notifying the Speaker and the government in writing according to a time limit established by the Standing Orders.

Budget Implementation

- 3.31 Close monitoring of government expenditure by the Trinidad and Tobago Parliament is absent. This is partly because of lack of information; in-year reports providing a report of the budget’s effects during the budget year are not produced although there will be some media briefings to inform the public about actual revenues and expenditures.
- 3.32 A Mid-Year report is produced, but only for internal purposes and to ascertain whether the funds appropriated by Parliament need to be increased or reduced. If a change is required another bill is produced in Parliament to deal specifically with the proposed changes. This is provided for in the Supplemental Appropriation Bill which may contain some details of the Executive’s mid-term review produced internally

(Article 113 of the Constitution; Article 16 (2) of the Exchequer and Audit Act). According to the Standing Orders, a supplementary Appropriation Bill can be presented in the course of a particular financial year or after its close, incorporating proposals which have been approved by the Finance Committee and agreed to by the House under Standing Order No. 69.

- 3.33 As an example, a meeting of the Finance Committee took place on Wednesday 18 January 2012. Members of Parliament were informed of this meeting on Friday 13 January. The Finance Committee considered and approved the provision of Supplementary Funds to the sum of \$2,702,305,000 to retire advances made from Treasury Deposits which were utilized to meet listed items of expenditure. In accordance with Section 17(1)(b) of the Exchequer and Audit Act, Chapter 69:01: advances made from Treasury Deposits are recoverable within 12 months after the close of the financial year in which the advances are made.
- 3.34 The Finance Committee also approved the variation of the Appropriation for fiscal year 2011 to the sum of \$1,411,951,914. This reflected the re-assignment in responsibilities and the creation of new ministries as assigned by the President acting on the advice of the PM. Write-offs to the sum of \$478,966.89 (which had been approved by Cabinet mainly for overpayment of salary in the Public Services) were also approved by the Finance Committee.
- 3.35 The Finance Committee noted the transfer of \$675,432,633 between Sub-Heads under the same Head of Expenditure. These were approved by the Minister of Finance based on Notes from the respective ministers requesting transfers between the Sub-Heads. A statement showing the transfers approved by the Minister of Finance was circulated along with explanations for transfers.
- 3.36 A written report of the Finance Committee is prepared and debated for any Supplementary Appropriation and this is followed by consideration of the Supplementary Appropriation Bill. As an example, the report of the Finance Committee was presented to the House of Representatives on Friday 20 January (two days after the Finance Committee). The Minister of Finance moved a Motion asking the House to approve the First Report (2011-2012 Session) of the Finance Committee on proposals for the Supplementation and Variation of the 2012 Appropriation. The initial contribution to the debate was made by the Leader of the Opposition, followed by contributions from 9 Members. The Minister of Finance concluded the debate. The Bill was then read a second time by the Minister of Finance, and finally a third time, and passed. It should be noted that the Standing Orders state that the second reading of the Supplemental Appropriation Bill be confined to the matter for which additional expenditures is required and, when this has been agreed to, the question that the Bill be now read a third time is put immediately without amendment or debate.
- 3.37 The Supplementary Estimates can be of great length, but it is very difficult for any member to work out the significance of the changes or the reasons for the changes.

The meeting of the Finance Committee on 18 January took less than 30 minutes and the only questions were put by members of the Opposition. Affiliation to the government should not prevent MPs from looking at the budget critically in the interests of the electorate (and their constituents).

An Estimates Committee?

- 3.38 The main purpose of the Parliament of Trinidad and Tobago is to approve expenditure, but the degree of democratic scrutiny and transparency could be strengthened to ensure those responsible for administering public funds must be held accountable by the legislature for their functions.
- 3.39 The procedure for considering the main and supplementary estimates through the Finance Committee sitting as a Committee of the whole House is in keeping with practice within the region. The advantage of this process is that all Members are involved. Yet the general trend across other jurisdictions is both for a dominant Committee responsible for budget review with some degree of input from sectoral committees²⁸. In Sweden, New Zealand and the US a single committee considers budget aggregates and sectoral committees consider sector specific appropriations. In Canada, a single committee of the lower house considers the budget bill while sectoral committees consider individual appropriations in their areas; in the Senate, a single committee considers both the budget bill and individual appropriations²⁹. The Finance Bill in the United Kingdom is now divided between the Committee of the whole House and a public bill committee.
- 3.40 In Bangladesh a Committee on Estimates examines such estimates “as may seem fit to the committee or are specially referred to it by the House”. The functions of the committee are to report what economies, improvements in organization, efficiency or administrative reform, consistent with the policy underlying the estimates, may be affected; to suggest alternative policies in order to bring about efficiency and economy in administration; to examine whether the money is well laid out within the limits of the policy implied in the estimates; and to suggest the form in which the estimates shall be presented to the House.
- 3.41 The major advantage of a functional committee scrutinizing executive budget proposals and expenditure proposals is that it can focus on the overall fiscal framework. Arguably, it is easier to hold government accountable through the use of a single powerful committee. On the other hand, sector committees will have expertise in the particular area under scrutiny and thus are more equipped to handle budget matters within their sector.

²⁸ Denmark, Turkey and Israel are examples are countries where the task of reviewing the budget is left solely to a Budget/Finance Committee.

²⁹ OECD (2011). Parliamentary Budget Officials Network Survey. 3rd Annual Meeting of OECD Parliamentary Budget Officials, Swedish Parliament, Stockholm, 28-29 April.

- 3.42 There does not seem any support within Trinidad and Tobago for a smaller Budget/Finance Committee to *replace* the existing Standing Finance Committee. However, the Parliament may wish to consider establishing a new JSC to *supplement* the Finance Committee and/or make use of the existing JSCs. This would ensure the Finance Committee still has the right to review and accept/reject these recommendations (and formally consider all budget-related matters). The Departmental estimates should be sent to the existing JSCs, or a new JSC, at the earliest possible date so that the committee(s) have an opportunity to examine them thoroughly, making use of public hearings as appropriate, before they are voted on in the Committee of the whole House.
- 3.43 In the main estimates the committee(s) could make use of the existing 7 days outlined in the Standing Orders (of which the Finance Committee currently uses less than 1 day). Therefore it should not slow up the process unduly although the earlier receipt of budget papers would be important. There would be some delay in the examination of supplementary estimates, but a period of 1-2 weeks could be realistic.

Box 3: Expenditure Plans and Priorities: Canada

Spring Planning. All departments and agencies submit Reports on Plans and Priorities to Parliament which are referred to the appropriate standing committee for review. These documents provide information on the spending plans and priorities of departments and agencies over the medium term. Committee review the reports, report on them and assist in the Cabinet review of priorities that occurs each summer.

Fall performance reporting. Every department and agency prepares a Performance Report which is tabled in the House and referred to the appropriate committees. The reports contain information on the results that programmes have delivered over several years and on whether progress is being made toward attaining performance targets.

Budget and Main Estimates: When the government tables its Budget, usually in February, it declares its spending priorities for the upcoming years. Main Estimates are tabled shortly thereafter, representing the government's detailed expenditure plan for the next fiscal year. The cycle begins again at this point with departments and agencies tabling their next Reports on Plans and Priorities in support of both the Main Estimates and the longer-term planning directions provided by the Budget.

Source: Office of the Auditor-General of Canada (1998) Parliamentary Committee Review of the Revised Estimates Documents.

- 3.44 The same JSC (s) could also be used to input into the pre-budget process (see para 3.16) and to carry out closer monitoring of government spending (see para 3.31). This would ensure the committee members are involved in all stages of the budget cycle (with the exception of audit, the preserve of the PAC/PAEC). This should improve Committee Members' expertise and strengthen Parliament's ability to scrutinize the budget. Box 3 explains the three periods in the year when parliamentarians have an opportunity to contribute to the definition of expenditure plans and priorities in Canada.

- 3.45 A new Joint Committee could consist of 10 Members and reflect party balance in the House and Senate. It could be chaired by an independent Senator and the quorum set at 3 to increase the efficiency of the committee. Using the existing JSCs to conduct detailed scrutiny of the estimates may overload them, but the Standing Orders allow the JSCs to meet concurrently with any other Committee. This would encourage greater synergies between the JSCs. Fears of overload are understandable, but it does not seem unreasonable for the existing JSCs to dedicate one meeting at each of the pre-budget, budget approval and budget implementation stages to examine financial aspects of a ministry/entity under their purview.
- 3.46 The Parliament of Trinidad and Tobago may wish to take note of recent developments in Jamaica where following the amendment of the Financial and Administration and Audit Act, a Public Administration and Appropriations Committee (PAAC) has been given the responsibility to assess proposed supplementary estimates and statements of excess *before* these are voted on by Parliament (see Box 4). The work of the committee is described below.

Box 4: Financial Administration and Audit (Amended) No.2 Act 2010

(48g) Before the House of Representatives votes on any statement of excess or supplementary estimates pursuant to section 116(2) of the constitution, the Public Administration and Appropriations committee of the House, shall consider, and report to the House on the Statement of excess or supplementary estimates (as the case may be), having regard in particular to any financial instruction raised by the Financial Secretary, under section 51, as to the contents of statements of excess.

- 3.47 The Jamaican PAAC (formed in 1996) has the duty of:
- (a) Examining budgetary expenditure of government agencies to ensure that expenditure is done in accordance with parliamentary approval;
 - (b) Monitoring expenditure as it occurs and keeping Parliament informed of how the Budget is being implemented;
 - (c) Enquiring into the administration of government to determine hindrances to efficiency and to make recommendations to the Government for improvement of public administration; and
 - (d) Examining all supplementary estimates of expenditure and report to Parliament in a timely manner.
- 3.48 The PAAC is chaired by an Opposition Member. Early experience of the scrutiny of supplementary estimates is that the Committee has focused investigations on where public funds are most required and on those areas which have seen their budget cut. The PAAC meets with the Permanent Financial Secretary and the ministries affected to ascertain the impact on budgets. The process, which is still being developed, is expected to produce more detailed scrutiny and improve the subsequent discussions at the Standing Finance Meeting. The changes have already provided for more effective review of the Supplementary Estimates and increased interaction between Parliament, through the PAAC, and ministers and departmental officials (previously

parliamentarians were just informed of changes). This reinforces the key message that better financial scrutiny has advantages for the Government as well as the legislature.

- 3.49 A Public Accountability Inspectorate Division of the Ministry of Finance and the Public Service (PAI) supports the work of the PAAC and a representative from the Division attends the PAAC's monitoring meetings. In addition the PAI will submit quarterly reports to the Committee. These will cover: the expenditure and performance of the public sector during the quarter under review; major investigations conducted and actions taken; and issues affecting proper implementation of the budget.
- 3.50 The IBP lists Latin America and the Caribbean as areas where budget transparency needs to improve and the changes outlined above may also serve to make the budget process more transparent and consultative. Indeed, committee hearings in which experts and civil society inform MPs about the proposed budget may be a useful instrument not just for the legislature, but also for the Executive.
- 3.51 In Trinidad and Tobago no public hearings are held on information presented in the budget and the Parliament does not consult those people who may be affected by government spending. It is perhaps understandable that the Finance Committee meets *in camera* because it is not a forum for debate, but deliberating on the estimates and the report of the committee does allow the public, through the legislature, to be aware of its conclusions. The experience of opening up parliamentary proceedings in Trinidad to the media and the public suggest that opening up the discussions of the budget process could boost financial accountability and public understanding.

Budget Support and Information

- 3.52 The 2008 PEFA report reported that the budget documentation presented to parliament includes fairly comprehensive information on the budgetary context, intent and recent financial achievements. The 2010 Open Budget Index, conducted by the International Budget Partnership, describes the major gaps in information as follows:
- It lacks comprehensive information that can help explain the relationship between the government's revenue and expenditure plans and its policy and macroeconomic goals.
 - It presents very limited information on certain fiscal activities than can have a major impact on the government's ability to meet its fiscal and policy goals.
 - It lacks information on outputs and outcomes.
- 3.53 Whatever procedures are put in place for parliamentary oversight of the estimates, until such as time that the executive adopts a results-orientated and strategic

Expenditure Management System, effective parliamentary oversight and input is likely to prove elusive. The experience of other jurisdictions is that performance will only improve when information provided to Parliament becomes “easier to understand, less accounting-orientated, longer-term in focus, and targeted at the level of results and public policy”³⁰. An *Alignment* project in the UK is intending to bring departmental budgets, Estimates and accounts more closely into line and rationalizing the finance-documents presented during the annual cycle. It is hoped that this will make it easier for MPs to track a department’s finances from in-year spending to outturns more easily and comprehensively³¹.

- 3.54 A Public Financial Transformation/Reform Process is taking place within Trinidad, but it will take some time to bear fruit. The government is working with various international organisations such as the World Bank, Inter-American Development Bank (IDB), and the European Union to introduce a more results-oriented and strategic expenditure management system as this, when enacted, will provide opportunities for the legislature to play a more active and informed role. At the same time there will need to be greater recognition within departments, that feedback and involvement from parliamentarians is an important input into the budget process.
- 3.55 Even if the system ensures that appropriate financial information is presented, the budget process must also enable Parliament to make the best use of that information. New procedures and committees will require independent support. The most commonly available source of technical capacity for budget analysis is committee staff (although numbers vary widely across Parliaments) and committees often also consult outside advice or employ experts to assist them in their work. The latter is an option for the Parliament of Trinidad and Tobago under existing provisions for special advisers and could be achieved relatively quickly (at least for the key stages in the budget process). The Jamaican PAAC has the temporary support of an independent consultant, funded by the IDB, who helps draft the reports and provides an independent analysis of the figures. However, appointing special advisers to a committee will not open up support to the legislature as a whole.
- 3.56 Training existing committee staff in public finance would aid the professional development of parliamentary staff, but it is unlikely that even after this additional training, the level of expertise will be at the level required.
- 3.57 A further option would be to establish a unit within the executive to provide information to Parliament, but it would be difficult for such a unit to have the confidence of the Opposition. There may also be questions of conflict of interest.

³⁰ Parliamentary Committee Review of the Revised Estimates Documents., Office of the Auditor-General of Canada (1998)

³¹ Information supplied by the Scrutiny Unit of the House of Commons.

- 3.58 It is unrealistic to expect the Parliament of Trinidad and Tobago to create an independent budget office such as found in Canada and the USA. An option could be to recruit a full-time parliamentary budget adviser(s), reporting to the Clerk, to offer independent advice on budgetary matters throughout the year and to assist with budget-related research and analysis. The budget adviser could prioritize support to the new JSC while assisting other JSCs and individual Members by drawing up technical working studies and documents on budgetary management and public finance. The Adviser could also undertake analyses on their own initiative. The Parliament may wish to note an initiative of the Scottish Parliament to establish a Financial Scrutiny Unit to provide independent analysis and support to Committees and individual Members on budgetary trends and issues. This could be a realistic long-term goal for the Trinidad and Tobago Parliament.
- 3.59 One of the potential drawbacks is access to the Executive's information. Many units only have access to public information unless they approach departments directly (and this may not always be forthcoming). Yet the work of a full-time officer in Parliament could assist parliamentarians by making the review of budgetary documents more efficient. This could be achieved by the Officer developing a set of priority areas for questioning; targeting areas where committees can have the greatest impact; and liaising with other stakeholders such as the Office of the Auditor General and officials of the departments and agencies that prepare the Estimates documents.
- 3.60 Even changes to the budget process and improved budgetary information can only go so far. Parliamentarians must be able to make the most of any changes to the budget process if real change is to occur. Legislators will also have the responsibility to take the lead for promoting reforms.

Reporting/Audit

- 3.61 Appropriation Accounts showing actual expenditure compared with estimates on the votes for which they are responsible are prepared and these must be submitted to the AG four months after the end of each financial year i.e. by January 31st. Additionally the Treasury is required to submit to the AG, accounts showing fully the financial position of the country as at 30th September of each year.
- 3.62 The role of the AG is defined under Chapter 8 Section 116 (1) to (6) of the Constitution of The Republic of Trinidad and Tobago as follows:
- (1) "There shall be an AG for Trinidad and Tobago, whose office shall be a public office."
- (2) "The public accounts of Trinidad and Tobago and of all officers, courts and authorities of Trinidad and Tobago shall be audited and reported on annually by the AG, and for that purpose the AG or any person authorized by him in that behalf shall

have access to all books, records, returns and other documents relating to those accounts.”

(3) “The AG is hereby empowered to carry out audits of the accounts, balance sheets and other financial statements of all enterprises that are owned or controlled by or on behalf of the State.”

(4) “The AG shall submit his reports annually to the Speaker, the President of the Senate and the Minister of Finance.”

(5) “The President of the Senate and the Speaker shall cause the report to be laid before the Senate and the House of Representatives, respectively, at the next sitting of the Senate and the House of Representatives after the receipt thereof, respectively.”

(6) “In the exercise of his functions under this Constitution the AG shall not be subject to the direction or control of any other person or authority.”

- 3.63 The Exchequer and Audit Act, Chapter 69: 01 states that “the AG shall examine, inquire into and audit the accounts of all accounting officers and receivers of revenue and all persons entrusted with the assessment of, collection, receipt, custody, issue or payment of public moneys or with the receipt, custody, issue, sale, transfer or delivery of any stamps, securities, stores or other State property.” Section 25 (1) of the Exchequer and Audit Act, states that the AG is required to audit the accounts of Ministries, Departments and other Government Agencies to ensure that expenditure was carried out in accordance with the Appropriation Act. The standards adopted are guided by the International Organisation of Supreme Audit Institutions (INTOSAI).
- 3.64 The Appropriation Accounts together with the AG’s Report must be submitted to the Speaker of the House of Representatives, the President of the Senate and the Minister of Finance by April 30th (equivalent to three months from submission to the AG). On receipt of such reports, the Speaker and the President of the Senate are obliged to lay such reports before the respective houses of Parliament at the first sitting after receipt thereof. It is then referred to the PAC for examination.
- 3.65 The AG is appointed by the President after consultation with the Prime Minister and the Leader of the Opposition. Her tenure in office shall be at the age of 65 and she may not be removed from office except where a Tribunal appointed by the President specifically recommends in the instance that she is found unfit to carry out her responsibilities (restricted to reasons of incompetence, poor health or criminal conduct). The salary of the AG is charged directly to the Consolidated Fund.
- 3.66 While the AG is an Officer of Parliament, the Office of the AG is treated as a government department. Staff are appointed by the Public Service Commission in consultation with the AG. It is clear that the Office of the AG suffers from capacity constraints; it is under-resourced in terms of staff with less than half of its total

complement of staff. The office has recently been granted adequate office accommodation.

- 3.67 Several PACs are paying more attention to reviewing the operations of the AG, but this appears to be done on an ad-hoc basis in Trinidad and Tobago. The First Report of the PAC in the first session of the eighth Parliament (2002-2003) made some recommendations concerning the Office of the AG which led to some changes, but the relationship appears fairly informal (to date).
- 3.68 In some Commonwealth jurisdictions a special Commission of Parliament, bodies that are separate from their respective PACs, but often with overlapping membership, deals with the Audit Offices' annual budget and resources; confers or exempts the AG from certain legislated obligations; and approves the appointment and removal of the independent auditor of the Audit Office. Other jurisdictions see these functions as an essential part of the PAC (for example the Welsh PAC must examine and consider the estimates of income and expenditure of the Audit Office); others use the more strategic approach of a parliamentary commission partly because of fears that the audit independence could be threatened if the *structural* connections with the AG were dealt with by the PAC.
- 3.69 It is normal practice for PACs to be consulted on the determination of Audit Office priorities; but this is also lacking in Trinidad and Tobago where the Office of the AG must follow the rules and regulations set by the public service and is audited by the Ministry of Finance. Although outside the terms of this particular study, a review of the powers and functional autonomy of the AG's Office is overdue; indeed many of the issues facing the functional independence and staffing of the Audit Office mirror the issues faced by Parliament as it moves towards its own administrative independence. For example both the Parliament and the Office of the AG are subject to internal audit by the Ministry of Finance; when international best practice is for the Parliament and the AG to hold the Executive to account. It is also considered good practice in most jurisdictions for the AG to have the right to appoint staff and determine their terms and conditions of employment. In addition the Office's budget could be negotiated directly with Parliament rather than through the government's Estimates process (an arrangement that can lead to pressure on the Office and result in the withholding of funds).
- 3.70 The PAC may wish to consider an annual review of the performance of the AG Office given that the work carried out by the AG directly impacts on the effectiveness of the PAC and public's confidence in the institutions of the state.

The Public Accounts Committee and the Public Accounts Enterprises Committee

- 3.71 The Constitution of the Republic of Trinidad and Tobago establishes the PAC and the PAEC (Section 119). The PAC in the Westminster system (and increasingly beyond) is the main committee of Parliament for exercising its power of financial oversight

and control of the public purse. The PAC in Trinidad and Tobago has drawn from the experience of the UK Parliament. Similar to other committees, the PAC is only a recommendatory body and it cannot enforce its recommendations.

- 3.72 In Trinidad the PAC is charged with the responsibility of examining the appropriation accounts of moneys granted by Parliament to meet the public expenditure of Trinidad and Tobago. The PAC therefore examines the audited accounts of government ministries and departments, paying close attention to the comments made by the AG which relate to financial management. The PAEC examines the reports and accounts of the public undertakings and determines whether the affairs of these institutions are being managed in accordance with sound business principles and prudent commercial practices.
- 3.73 The PAEC was established as a result of the growth of the public sector. Since the early 1970's there has been an increase in the number of Statutory Corporations and State Enterprises covering a wide range of industrial and other economic activities. Consequently, it was considered that since parliamentary control was too remote and not continuous, a mechanism should be created for Parliament to keep an effective watch over public sector projects in which millions of taxpayers' dollars had been invested. In India and Sri Lanka a separate committee also provides oversight relating to public sector undertakings.
- 3.74 Historically, PACs were established to ensure parliamentary follow-up on AG reports and the relationship between the two has become the principal form of expression in legislatures across the Commonwealth. This has led some commentators to refer to the PAC as the "parliamentary champion" of the AG. Other observers have described the AG as the "friend, philosopher and guide" of the PAC. A useful summary is that AG delivers the information and the PAC delivers the message. The Trinidad PAC can refer matters to the AG for investigation, examine the AG's performance and compliance reports and do value-for-money analyses (although this will depend on the entity being reported on). As with most other jurisdictions the PAC has unrestricted access to examine their AGs' reports.
- 3.75 PAC and PAEC meetings are normally attended by representatives from the Finance Ministry, staff from the Audit Office (who provide notes for Members to formulate questions) and guidance/clarification on matters presented in the AG reports. In most Commonwealth jurisdictions, the AG or his or her representatives are ordinarily expected to attend PAC meetings; liaise with the PAC; and provide regular consultation in the ongoing business of the PAC as well as for specific inquiries/hearings. This may include, commenting in private on the evidence, reviewing draft reports, preparing briefings and drafting contributions to reports. In some countries a staff member from the AG's office is generally assigned full-time to the PAC for the duration of an inquiry. It should also be noted that the PAC is seen to have much greater impact than other committees because of the resources of the Audit Office behind it. Yet the relationship between the AG and PAC in Trinidad and

Tobago appears rather functional and arms-length than is found in many other jurisdictions.

Backlog of Audit

- 3.76 The backlog of accounts has been a pressing issue facing Trinidad and Tobago for some time. Both the AG and the PAC are unable to cope with the volume of audit reports and no PAC has ever been able to accomplish the work constitutionally assigned to it. This derives from a number of factors:
1. A significant number of entities continue either to submit no accounts or to submit to the AG long after the end of the financial year.
 2. Capacity constraints within the AG's Department
 3. The number of entities and reports to be examined by the PAC means there will also be a backlog. Even at a rate of one entity being examined per meeting and for a maximum of 20 meetings per annum, 78 entities would remain unexamined and would be carried over to the following year³². The cumulative effect is obvious and this is exacerbated when the PAC does not meet regularly (see below).
- 3.77 The AG reports that Ministries now generally comply with the due date of 4 months after the year end and the AG has been able to report to Parliament on time every year since independence. However, as at October 30 2009, 27 entities (including 5 Regional Health Authorities) had not submitted signed financial statements to the AG (for many entities this backlog went back some 14 financial years). The situation had deteriorated since 2005 when the AG also reported³³.
- 3.78 While the AG is empowered to audit state owned enterprises, the tendency is for these entities to be audited by private audit firms because of the resource constraints on the AG. Therefore the AG does not have much contact with the PAEC. There is no contact between the State Enterprises and the AG at the present time (indeed the AG does not even receive a copy of the audit report of these state enterprises). Extra-budgetary funds are not audited. However, a backlog of audit endures with a number of statutory bodies and the copies of the audits carried out by company appointed external auditors are submitted to Parliament. This procedure does not appear to involve the AG.
- 3.79 The current chairs of the PAC and PAEC describe their biggest challenge as getting the relevant information on timely basis. There have been some improvements in recent years and audited accounts are being produced much faster and are being accompanied by a management letter and comments from Ministry of Finance. Yet there does not appear to be a regular and systematic review of the entities which fail to submit financial reports in accordance with the Exchequer and Audit Act.

³² First Report of the PAC (2002-2003)

³³ The AG is currently compiling an up-to-date list for the PAC.

- 3.80 At its meeting on 24 January 2012, the PAC met with the AG *in camera* and asked her for a list of these entities and to come up with any proposals/recommendations on how to deal with them. This could become an annual feature of the PAC's work on the basis of a report from the AG rather than an ad-hoc item on the agenda. For example a public hearing could be conducted each session to enable the PAC and PAEC to question those entities which are behind with their reports. Indeed, experience from the Eighth Parliament suggests that this approach can encourage entities to submit reports.
- 3.81 One option mooted from time to time is to institute mechanisms to compel entities to submit their financial reports on time. The Ministry of the Attorney General has advised that the Financial Regulations set guidelines for Accounting Officers which stipulate that various financial reports be submitted to the AG and that Regulation 141 states that a person who contravenes its provisions is liable on summary conviction to a fine. However, the sum is just T\$150 – set by the Exchequer and Audit Act - which is hardly a significant sum to act as a convincing deterrence. It is also unclear whether appropriate procedures are in place for enforcing this provision and whether it is the accounting officer in the line ministry or the accounting officers in the statutory boards, municipalities and Commissions who are accountable.

Box 5: Prioritizing PAC Inquiries in the Isle of Man⁵³

The following factors are taken into account:

- The significance or potential significance of the matter for the reputation of Tynwald or the island more generally;
- The credibility of any allegations the Committee has been asked to investigate;
- The *quantum*: the sum of public money involved;
- The level of public concern; and
- The question whether the issue could be referred to another existing standing or select committee of Tynwald or the branches.

- 3.82 In terms of the backlog facing the PAC – a backlog which would have been exacerbated by the lack of recent meetings, the PAC is focusing on those entities that have not appeared before the committee in the last few years and post 2008 accounts. This is understandable given the backlog of reports and part of the work of any PAC should be to prioritize its work and make hard choices on what it can reasonably examine. The PAC could consider the merits of a more strategic and needs-based approach.
- 3.83 Other options the PAC may wish to consider are to meet more regularly; establish a subcommittee or subcommittees to examine particular entities and to invite other JSCs to use relevant audit reports in their inquiries. Any U.K. select committee can take evidence on an NAO report if the PAC does not wish to do so. A formal planning process

and prioritization of the work load is essential and the Chairperson of the PAC normally takes a leading role.

Assessment of the PAC

- 3.84 The attributes of an ideal PAC have been the subject of increased international attention in recent years. These factors are shown in Table 10 and the following section will consider the attributes of the PAC in Trinidad and Tobago against each of these factors. While the focus of this evaluation will be on the PAC, reference will be made to the PAEC where appropriate.
- 3.85 Generally developed committee systems have a small and permanent membership, but the size of a PAC can vary considerably. The typical size of a PAC in the Commonwealth is 11 members, with the average in Asian Parliaments being 17 and that in Caribbean, Australian and New Zealand Parliaments being six³⁴ ³⁵. The average number of legislators in PACs across Canada is 9³⁶. According to a survey of small country parliaments carried out by the WBI in 2009, the size of the PAC varies from 14 members in Papua New Guinea and 12 members in Fiji to three members in Tuvalu and Kiribati. The PAC in Jamaica has 13 members. The Standing Orders of the House of Representatives (there is no mention of both committees in the Senate Standing Orders) state that the PAC in Trinidad and Tobago shall consist of not less than six, and not more than ten members inclusive of the Chairman. While ten members may be a little high for the size of the Parliament, it is lower than the other JSCs and appears reasonable if not ideal.
- 3.86 Having a balanced representation is a crucial determinant of a PAC's success and this factor is met in Trinidad and Tobago as membership of the PAC/PAEC is proportionate to party membership in the House (therefore the government will usually have a majority on each committee) and there is also representation from the Senate (there is no mention of the PAC/PAEC in the Senate Standing Orders).

³⁴ D. McGee *The Overseers*, Pluto Press, 2002 , p.61.

³⁵ KPMG, 'The Parliamentary Public Accounts Committee: An Australian and New Zealand Perspective', 2005, p.6

³⁶ R. Stapenhurst & C. Kroon (2010) PAC Profiles and Performance in Canada. Canadian Study of Parliament Group, January 2010.

Table 10: Compliance of PAC in Trinidad and Tobago with the Attributes of an Ideal Committee

Requirement of an “Ideal PAC” ³⁷	Compliance with Requirement	Partial compliance with requirement	Non-compliance with requirement
The Committee is small; committees seem to work well with 5-11 members, none of whom should be government Ministers		Para 3.85	
Senior opposition figures are associated with the PAC’s work, and probably chair the Committee;	Para 3.89		
The Committee is appointed for the full term of the parliament;	Para 3.90		
The Committee is adequately resourced, with an experienced clerk and a competent researcher(s);	Paras 3.91 – 3.93		
There is clarity on the Committee’s role and responsibilities		Paras 3.72/3.73, 3.94/ 3.95	
The Committee meets frequently and regularly			Para 3.99 – 4.04
Hearings are open to the public; a full verbatim transcript and summary minutes are quickly available for public distribution		Paras 4.05/4.06	
A steering committee plans the Committee’s work in advance and prepares an agenda for each meeting to the full Committee		Para 4.04	
The typical witness is a senior public servant (the “accounting officer”) accompanied by the officials that have detailed understanding of the issues under examination	Para 4.05		
The Auditor’s Report is automatically referred to the Committee and the Auditor meets with the Committee to go over the highlights of the report.		Para 3.75	

³⁷ Stapenhurst, Sahgal, Woodley and Pelizzo. 2005 “Scrutinizing Public Expenditures: Assessing the Performance of Public Accounts Committees”. Policy Research Working Paper No. 3613, World Bank.

Requirement of an “Ideal PAC” ³⁷	Compliance with Requirement	Partial compliance with requirement	Non-compliance with requirement
In addition to issues raised by the Auditor, the Committee occasionally decides to investigate other matters.		For example para 3.93	*
In all its deliberations, the Committee uses the Auditor as an expert adviser	Para 3.75		
The Committee strives for some consensus in their reports		Paras 3.97 – 3.98	
The Committee issues formal substantive reports to parliament at least annually			Para 4.06
The Committee has established a procedure with the government for following up its recommendations and is informed about what, if any, action has been taken			Paras 4.07 onwards
Parliaments hold an annual debate on the work of the Committee			Para 4.12

3.87 The presence of ministers on each Committee is reflective of the size of the Parliament and a problem across the committee system (see para 2.16). Ministers are not normally appointed to the PAC although exceptions do occur across the Commonwealth. In Sri Lanka, for example, a senior minister chairs the committee. Taking the smaller Canadian provinces as an example, the Standing Committees on Public Accounts in Newfoundland & Labrador (48 members) and Saskatchewan allow ministers to serve although it is not currently the practice. Only Yukon (18 Members of the Legislative Assembly) has ministers serving on its PAC. Prince Edward Island (27 members); Northwest Territories (19); Nunavut (19) and Nova Scotia (52) prohibit ministers from serving on the PAC³⁸. In Jamaica, no member of the PAC shall be a Minister or Parliamentary Secretary (Standing Order 68 (3)).

3.88 Paragraph 2.16 raises the possibility of restricting JSC membership to Ministers of State and Parliamentary Secretaries. This restriction should be possible on the PAC: there are 12 representatives from the government on the two committees and there are currently 9 Ministers of State and two Parliamentary Secretaries as well as three backbench government senators. Another option would be to have the same members on both the PAC and PAEC with perhaps a different Chair (formally merging the two committees would require a constitutional change). This would increase the pressure on the remaining Members, but it would increase expertise and reduce the demands on government Ministers (as well as Opposition Members). It is imperative for the

³⁸ Stapenhurst and Kroon *op.cit.*

PAC to be seen to exercise their responsibilities independently and objectively and this becomes difficult if members of the committee have executive responsibilities.

- 3.89 In keeping with the practice across the Commonwealth, the Chairmen of the PAC and PAEC are Members of the Opposition. Indeed the current Chair of the PAC is a former Minister which should provide valuable experience to committee deliberations. The Constitution ensures that the Chairmen of the PAC and the PAEC shall be a Member of the Opposition (from the House of Representatives in the PAC and the Senate in the PAEC). Therefore, senior opposition figures are associated with the PAC's work.
- 3.90 Longevity of membership strengthens all committees and membership of the PAC/PAEC across the full parliament is generally stable although formally the Speaker/President of the Senate must approve Members to the Sessional Select Committees after the beginning of each session.
- 3.91 The level of staffing resources available has been a factor in the PAC's ability to undertake inquiries in other regions (KPMG 2006). There is considerable variation both across the Commonwealth and within regions. The typical PAC in the British Isles has (approximately) two or three full-time staff members. A recent WBI survey found an average of fewer than two professional staff assigned full-time across the Commonwealth. In small country parliaments, the number of staff varies widely and not all PACs have dedicated staff. Within Canada the number of staff available varies from 1 in Manitoba and Nova Scotia to 6 in Saskatchewan (Stapenhurst 2010).
- 3.92 Compared with many other Parliaments, Trinidad is fairly well resourced in this area. Four staff service the two committees – a Clerk (the current Clerk to PAC/PAEC has been in post since October 2010, the date of the establishment of these committees in the 10th Parliament), an assistant clerk, secretary and one in-house research staff. This can be compared with the Parliament of Jamaica which has one full-time member of staff servicing the Committee. However, staff members serving the PAC/PAEC in Trinidad have other responsibilities in Parliament and an option may be to dedicate at least one member of staff to the two committees full-time.
- 3.93 The PAC has agreed to acquire the services of a financial analyst to assist the work of both committees. This will be a part-time Chartered Accountant and it is hoped that this will speed up the work of the committee. The work of both the PAC and PAEC are also facilitated by the assistance of personnel from the Investments Division of the Ministry of Finance, the Offices of the Comptroller of Accounts as well as the AG whose audited reports of Government Ministries and Departments and public sector enterprises form the basis of the scrutiny exercised by these Committees.
- 3.94 A broad scope or mandate is often raised as important for the conduct of a PAC. In examining the use of public monies, the Trinidad and Tobago PAC generally has similar right of access as other PACs such as unrestricted right to access government

agencies within and outside the finance ministry, statutory authorizes, government owned corporations and local authorities. The PAC can undertake self-initiated inquiries and does not consider budget estimates – again in keeping with normal practice elsewhere in the Commonwealth.

- 3.95 There is some confusion at the mandate of the PAC. The current Chairman had recently learned, for example, that the Committee could examine the accounts of the State entities as well as the ministries. This suggests a need for detailed rules of procedure and terms of reference to govern the work of the PAC that can be passed on to new Committee Chairs and Members.
- 3.96 The functions and powers of the PAC reflect normal practice such as having unrestricted access to examine public accounts and financial affairs as well as an unrestricted right (in theory) to consider issues of efficiency and economy of program implementation (e.g. value for money audits). Yet the global trend towards performance auditing and consideration of the effectiveness of policy implementation (delivery of outcomes) has yet to be fully realized in Trinidad. Part of the reason for the lack of value for money audits is concern that it will make the work of the committee more partisan. The AG recognizes that increasing the number of Special Reports is an area to be developed. According to the website of the AG, there have been 7 Special Reports since 2004.
- 3.97 The conventions that AGs and PACs do not question the merits of the policy objectives of the department or body concerned is usually observed, but there is a tendency to question the policy of the government for partisan reasons if it has proved controversial. Partisanship is a major obstacle to the effective functioning and success of PACs. Although there is an attempt to reach decisions by consensus within Trinidad and Tobago, it is clear that there is an element of partisanship within the Committee. One way to assist members to distinguish between their role of Party member and their role as member of the PAC is to develop a true ethos of policy neutrality, individually and collectively with the focus on the performance of the bureaucracy rather than the political executive. There should be a shared desire to see that government delivers the best service at the least cost. In addition the tone set by the Chairmen of the PAC and PAEC is critical for ensuring the non-partisan ethos of the committees.
- 3.98 One approach the PAC may like to consider is asking members who join the PAC/PAEC to sign a code of conduct (formal or informal) in which they pledge to respect the non-partisan nature of the Committee. Another important principle is that no member of the PAC should participate in its consideration of any matter if he or she was at the relevant time a member of the government (in a small jurisdiction it may be necessary to restrict this principle by ministry).
- 3.99 One indicator of workload is the frequency of meetings. According to the WBI survey, PACs in small jurisdictions meet on average 12 times per year (although there

is significant variation). The 2008 PEFA Report describes how the PAC in Trinidad and Tobago meets about 8 or 9 times a year with the result that no more than 10 or so reports are reviewed (out of about 100 a year) with a rapidly accumulating backlog of audit reports building up.

- 4.00 While volume of activity is not always useful in assessing performance, the activity of the PAC has slowed down since the 2008 report: the PAC had two *in camera* meetings for the first session of the tenth Parliament (June 2010 – June 2011). A third *in camera* meeting was held in November 2011. The first hearing of the current Parliament took place in January 2012. The lack of activity is important as “committees that meet on a frequent basis have a better opportunity of promoting consensual working practices than committees whose members come together infrequently”.³⁹
- 4.01 The situation in Trinidad compares unfavourably with the PAC in Jamaica which is a very active parliamentary committee: it had 9 meetings from January to March 2011 and averages about 18 meetings per session. Given the lack of meetings, it is not surprising that outputs and outcomes from PAC activity in Trinidad are negligible. The PAEC has been more active with a total of seven meetings for the first session of the tenth Parliament (three *in camera*)⁴⁰.

Table 11: PAC/PAEC Meetings in Trinidad and Tobago per Calendar Year

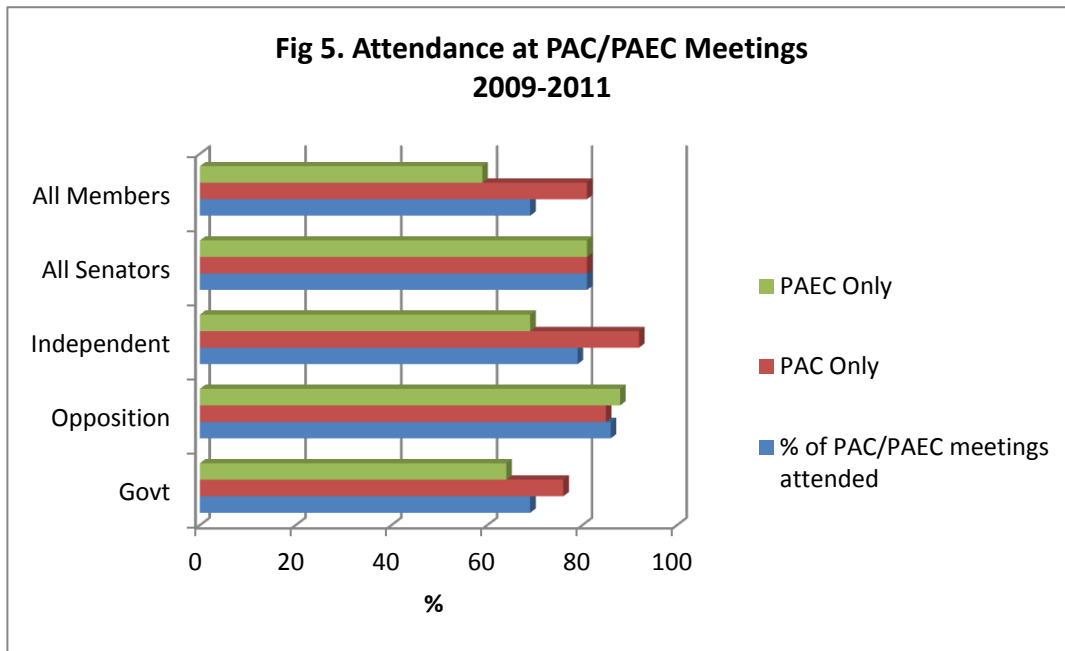
	2009	2010	2011
PAC Meetings	7	4	1
PAEC Meetings	5	4	8
PAC Meetings in Jamaica ⁴¹	17	14	22

- 4.02 A number of explanations have been provided for the scarcity of PAC meetings. As with the other committees, there are often difficulties in forming a quorum as members have to attend government or private business. Given the one day a week attendance to parliamentary matters there is little incentive to attend PAC business (which meets on a Tuesday). However, the quorum - five members, inclusive of the Chairman and at least one other opposition member – for both the PAC and PAEC – does seem a little high for a committee of 10 persons. In addition, the requirement for one further opposition member to form part of the quorum appears unnecessary given the constitutional provision in place for an Opposition Chairperson. Figure 5 shows that attendance at PAC Meetings has been quite good when the PAC has met (69% of available Members with opposition Members and Senators more likely to attend).

³⁹ D. McGee *The Overseers*, Pluto Press, 2002, p.72.

⁴⁰ The four public meetings of the PAEC examined the accounts of the Caribbean New Media Group, Caribbean Airlines Limited, Estate Management Business Development Company (two meetings).

⁴¹ Jamaica does not have the equivalent of a PAEC (the functions are included within the mandate of the PAC).



- 4.03 Other explanations for the recent lack of meetings include the disruption caused by the move to a temporary parliamentary building (although this has not had the same degree of impact on other committees) and the need to recruit a new financial analyst to assist the committee. However, the PAC still has considerable resources at its disposal. The commitment to independent audit of the executive requires political will and the support of the Chairmen, political parties, AG and Presiding Officers as well as pressures from wider society.
- 4.04 The timing of PAC and PAEC meetings are determined by the committee with the chairmen playing a leading role. While there is no formal policy that details the regularity of meetings and notice of meetings, the PAC and PAEC try to meet on a sitting day with the second Tuesday of each month devoted to the PAC and the third Tuesday the PAEC (the Senate sits on Tuesday). However, both committees envisage the need for 2 sittings per month in 2012. The date of the next meeting is set at the end of the previous meeting and the clerk attempts to circulate documents to members no less than 2 weeks before a meeting. There is a standard agenda for each meeting and the Chairman approves any different items on the agenda. In terms of the formal planning processes of both Committees, this normally takes place at the start of each session.
- 4.05 Both the PAC and PAEC possess an unconditional right to summon witnesses and call for information or documents. In the performance of its work, the PAC calls to account many Permanent Secretaries and Heads of Government Departments. In keeping with general PAC practice, most PACs call upon departmental officials rather than Ministers to give evidence because the PAC has no remit to look at policy. The

practice within Trinidad and Tobago is for PAC/PAEC meetings to take place in camera and then become open for the hearing. Both the PAC and PAEC in Trinidad and Tobago have resolved that all public meetings should be broadcast live on the parliamentary channel. This has improved transparency in the audit process.

- 4.06 The drafting of PAC and PAEC reports is prepared by the secretary with input from the Chair, Assistant Clerk to Committees and research staff. A meeting of the committee is convened for the members to ratify the draft report and its recommendations. Decisions are taken on the basis of consensus among members. Provision is made for a minority report which is tabled together with the majority report. The PAC and the PAEC have not released any reports during this Parliament. This is partly explained by the lack of meetings on the part of the PAC. As minutes of committee meetings only become public documents when they are reported on, there has been very little output from the PAC/PAEC in recent years.
- 4.07 One concern raised about public audit and financial scrutiny is the lack of follow-up on reports and the implementation of report recommendations, coupled with the timeliness of reports. Formal responses are made by Accounting Officers to audit findings usually within three weeks of receipt of a management letter, but the corrective measures are not carried out in a systematic or timely fashion across all Ministries
- 4.08 In most democratic jurisdictions governments have to formally respond to Committee reports and recommendations and there is a time frame for a response. In the British Isles this varies between 6 weeks (Wales) and 3 months (Ireland). Across Canada the average time frame for a government response is reported to be 4 months and there is usually a standard formal format for response in place⁴². In Trinidad, the Executive is formally required to respond to committee recommendations if they are contained within the report and the report is debated/adopted. Unlike the other “watchdog Committees” there is no requirement for a 60 days response for PAC reports. After being adopted in the Houses, the PAC recommendations are forwarded to Cabinet for implementation through the relevant portfolio Ministers.
- 4.09 No formal processes are in place to monitor and follow-up implementation of government responses to committee recommendations (such as through designated subcommittee, through Auditor-General, formal reporting mechanism) although this can be done on an ad hoc basis by the Audit Office and each committee. This is a weakness as the Audit Reports often indicate that the same findings are repeated suggesting that recommended actions are not always acted upon by the executive. Furthermore, no log is maintained to follow up systematically although auditors will follow up on progress as part of their subsequent audits to a given department.

⁴² Staphenurst and Kroon *op.cit.* p.30.

- 4.10 Most Commonwealth PACs have a mixture of formal and informal mechanisms to monitor and follow-up the implementation of government responses to PAC recommendations. Some PACs leave it to the Audit Office to monitor government responses. Taking practice within the British Isles as an example, a progress report on all accepted recommendations over the session is provided by the Scottish Public Finance Manual and the Scottish PAC also highlights significant recommendations contained in its reports. In Northern Ireland, the PAC follows up with the department for an update one year from the receipt of its reply. The PAC in Scotland often seeks progress reports twice every 4 years. Designated PAC subgroups monitor government responses in Jersey, on occasion through the AG. In the UK Departmental Annual Reports now have a section listing progress on recommendations made by the relevant Departmental Select Committee and by the PAC. The Isle of Man Government has to table an annual decisions report, which can be debated.
- 4.11 It is not unreasonable for a PAC to expect a response to be co-ordinated by the central agency, which in practice usually means the Ministry of Finance. Some jurisdictions are establishing special units in the Ministry of Finance to have specific responsibility to monitor PAC recommendations across all ministries and agencies. It then becomes the unit's responsibility to provide progress reports to the PAC and AG. Such a practice – which is currently being considered in Jamaica – may be useful for Trinidad and Tobago.
- 4.12 All PAC reports are tabled in parliament, but debate is rare. While there is no need for every report to be debated, previous PACs have argued the Standing Orders should make provision for the Committee to request a debate. There is no annual debate on the work of the PAC or PAEC. Both committees have had some difficulty in engaging the executive and parliament for more effective follow up of their recommendations. The feeling is that while the committees are generally respected, there is little serious follow-up.
- 4.13 While stakeholders within Trinidad believe the PAC has been instrumental in the establishment of a more responsive attitude on the part of Administrative Heads of Government Ministries/Departments to the advice and requirements of the AG's Department, the focus appears to be individual transgressions rather than remedying systemic issues of financial management. Many PACs are departing from previous practice and scrutinizing performance both at a given point in time *and* over many years. For example, the Scottish PAC considers a "baseline" report from the AG that gives an assessment of current performance, with continuous improvement being monitored by the AGS and PAC through a detailed performance report published after a suitable period of time. In addition PACs are also exploring recurring themes, arising from previous inquiries, through "thematic" reports as well as the cost implications and implementation of legislation. These reports can draw on lessons learnt from previous reports. Thematic reports provide opportunities for wider lessons to be learned across government.

Box 6: Summary of Potential Performance Measures for PACs

- Number and attendance of meetings and hearings
- Number of reports delivered
- Actual work completed (reports issued) compared to plan and budget
- Timeliness of reporting
- Percentage of recommendations accepted
- Percentage of recommendations implemented
- Number of parliamentary referrals
- Number of repeat findings
- Amount of measurable savings in public expenditure achieved as a direct result of PAC
- Awareness of PAC reports
- Number of submissions received on PAC inquiries
- Parliament's and public satisfaction with PAC effectiveness.
- Witness Satisfaction targets
- Compliance with Standing Orders

- 4.14 Within the Audit Office there is no quality assurance reviews carried out through self-assessment or on the basis of external reviews. Similarly the PAC/PAEC does not adopt a formal mechanism for measuring its performance and no formal procedure exists to ensure continuity. Box 6 provides a summary of potential performance measures for PACs. This will become even more important with the move towards special or value for money audits as the AG and PAC will need to demonstrate that value for money does in fact increase as a result of this effort.
- 4.15 In some committees, the outgoing Committee prepares a list of outstanding work for the newly elected PAC. The PAC in Scotland publishes a "legacy" paper: a useful tool for passing on experience to successor committees. Continuity in audit matters is, of course, often provided by the AG remaining in post. The PAC and PAEC in Trinidad and Tobago do not have a formal communication or reporting strategy and there is no requirement for an Annual Report. The matters addressed in a typical annual report include procedures and powers of the PAC, relationship with the AG (where relevant), chairman's comments, number of meetings held, work covered, future work, people seen, outcomes of meetings and reports produced.
- 4.16 The current system of input or line budgeting is accounting-oriented, but allows Parliament to hold Departments and Agencies to account in terms of whether the money has been spent, but not necessarily on what was achieved with the money that was spent; in other words the end result rather than the process. Reviews of financial and management systems are important, but a movement towards results-based auditing could produce more effective accountability in future. However, gathering information as to whether the expenditure achieved its stated purpose and produced value-for-money has proved difficult. The lack of results-oriented planning and performance information makes it difficult for the AG and the PAC to be truly effective and continuing improvements in public financial management will assist the audit cycle achieve its potential.